

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Registration No: 201055987
Issue No: 1052, 3055
Case No: [REDACTED]
Hearing Date: November 15, 2011
Saginaw County DHS

Administrative Law Judge: Corey A. Arendt

HEARING DECISION

This matter is before me in accordance with 7 CFR 273.16, MCL 400.9, MCL 400.37, and 1999 AC, R 400.3130, on the Department of Human Services' (the Department's) request for hearing. After due notice, a hearing was held on November 15, 2011, at which Respondent did appear but refused to be sworn in and did not provide any testimony. The hearing was held in accordance with Bridges Administrative Manual (BAM) 720, pp 9-10. The Department was represented by its Office of Inspector General (OIG).

ISSUE

In dispute was whether Respondent committed an intentional program violation (IPV) involving the Food Assistance Program (FAP) and Family Independence Program (FIP), thereby receiving an overissuance of benefits the Department is entitled to recoup.

FINDINGS OF FACT

Based on the clear and convincing evidence pertaining to the whole record, I find as material fact:

1. The Department's OIG filed a request for hearing to establish an over issuance of FAP and FIP benefits received as a result of a determination that Respondent committed an IPV.
2. On June 26, 2006 and July 2, 2007, the Respondent signed and submitted assistance applications (DHS-1171). (Department's Exhibit 1, 2). On the application, the Respondent indicated her grandson [REDACTED] was a household member.
3. Respondent acknowledged she understood her failure to give timely, truthful, complete, and accurate information about her circumstances could result in a civil or criminal action, or an administrative claim against her. (Department's Exhibit 1, 2).

4. From August 1, 2005 through June 30, 2007, Respondent received [REDACTED] in FIP benefits. From September 1, 2005 through June 30, 2007, Respondent received [REDACTED] in FAP benefits. (Department's Exhibit 5).
5. At no point in time between August 1, 2006 and June 30, 2007 did [REDACTED] live with the Respondent. (Department's Exhibit 3, 7).
6. From August 1, 2006 through June 30, 2007, Respondent received an over issuance of FIP and FAP benefits totaling [REDACTED]. (Department's Exhibit 5, 6).
7. There was no apparent physical or mental impairment present that limited Respondent's ability to understand and comply with his reporting responsibilities.
8. This was the first determined IPV committed by Respondent.

CONCLUSIONS OF LAW

The FAP (formerly known as the Food Stamp (FS) program) was established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the BAM, BEM and the BRM.

In the present matter, the Department requested a hearing to establish an over issuance of FAP benefits, claiming that the over issuance was a result of an IPV committed by Respondent.

Here the OIG provided unequivocal evidence that Respondent failed to keep the Department apprised of the changes in her group size and intentionally overstated her group size in July of 2006 to obtain additional benefits.

When a client or group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700, p 1. A suspected IPV is defined as an over issuance where:

- The client intentionally failed to report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, and

- The client was clearly and correctly instructed regarding his or her reporting responsibilities, and
- The client has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill their reporting responsibilities. [BAM 720, p 1.]

An IPV is suspected by the Department when a client intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing a reduction of, program eligibility or benefits. BAM 720, p 1. In bringing an IPV action, the agency carries the burden of establishing the violation with clear and convincing evidence. BAM 720, p 1.

Based on the credible testimony and other evidence presented, I have concluded the OIG established, under the clear and convincing standard, that Respondent committed an IPV in this matter. As at no time did the Respondent inform the Department of her correct group size as she knew she was required to do.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, I find Respondent committed an intentional program violation.

It is therefore ORDERED:

1. Respondent shall reimburse the Department for the FAP and FIP benefits ineligibly received as a result of his IPV in the amount of [REDACTED].
2. Respondent is disqualified from FAP for a period of 12 months.
3. Respondent is disqualified from FIP for a period of 12 months.

/s/_____

Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: November 16, 2011

Date Mailed: November 17, 2011

NOTICE: Respondent may appeal this decision and order to the circuit court for the county in which he / she resides within 30 days of receipt of this decision and order.

CAA/cr

cc:

