

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],  
Respondent,

Reg No: 2010 9210  
Issue No: 3055, 3052  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
May 5, 2010  
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on May 5, 2010. The Respondent appeared and testified. Norman McKenzie, OIG representative appeared on behalf of the Department.

ISSUE

Whether respondent committed an Intentional Program Violation (IPV) and whether the respondent received an over-issuance of Food Assistance FAP and FIP Cash Assistance benefits that the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. The Department's Office of Inspector General (OIG) filed a hearing request to establish an over-issuance of benefits received by respondent as a result of

- respondent having committed an IPV. The OIG also requested that respondent be disqualified from receiving program benefits. Exhibit 1
2. Respondent was a recipient of FAP benefits since 1999.
  3. This was the Claimant's first Intentional Program Violation for both the Food Assistance Program (FAP) and Family Independence Program (FIP).
  4. Respondent was aware of the responsibility to report all income in the household to the Department and advised her worker, at the time, of the change in income when she began to work.
  5. On July 28, 1999, the Claimant filed an application for FIP and FAP and indicated that no one in her group of 3 was working. Exhibit 2
  6. On June 15, 2000, the Claimant filed another application for FIP (cash assistance), FAP, and medical; she reported that she was employed by [REDACTED]. Exhibit 5.
  7. On July 14, 2000, the Claimant filed another application for FIP, FAP, and Medical Assistance and, again, reported that she was employed by [REDACTED]. Exhibit 3.
  8. Respondent reported her employment and income to her caseworker.
  9. An IPV investigation was initiated.
  10. As a result, respondent received over-issuances in the amount of \$1,020.00 under the FAP program. Exhibit 2, page 4
  11. The period of alleged fraud was January 1, 2000 through June 30, 2000. Exhibit 2
  12. The Department did establish that the Claimant did have income, during the period which was not included by the Department in calculating the Claimant's

FAP benefits, causing the Claimant to receive more FIP (cash) benefits than she was entitled to receive. Exhibits 9 and 10 pages, 11 and 12, respectively.

13. The Department established that the Claimant did have income during the period which was not included by the Department in calculating the Claimant's FIP benefits, which caused the claimant to receive more FIP benefits than she was entitled to receive.
14. The Department has not established that respondent committed an IPV.
15. The Department submitted FAP budgets demonstrating the amount of the FAP over-issuance for the 6 month period, January 2000 through June 2000. Exhibit 8
16. The Department is entitled to an over-issuance of FAP benefits for the months of January 2000 through June 2000 in the total amount of \$1020.00. Exhibit 8, respectively Pages 35 through 40.
17. The Department is entitled to an over-issuance of FIP benefits for the months of January 2000 through June 2000 in the total amount of \$667. Exhibit 7 Pages 32 and 33.

#### CONCLUSIONS OF LAW

The Food Assistance Program, formerly known as the Food Stamp ("FS") program, is 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 of Human Services ("DHS"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

The Family Independence Program (“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 of Human Services 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 Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

The Family Independence Program (“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 of Human Services 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 Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Bridges Program Reference Manual (“PRM”).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI). BAM 700, p. 1. DHS must inform clients of their reporting responsibilities and prevent OIs by following BAM 105 requirements informing the client of the requirement to promptly notify DHS of all changes in circumstances within 10 days. BAM 700, BAM 105. Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.

An Intentional Program Violation (IPV) is suspected when there is clear and convincing evidence that the client has intentionally withheld or misrepresented information for the purpose

of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility.

BAM 720, p. 1. The Federal Food Stamp regulations read in part:

(6) Criteria for determining intentional program violation. The hearing authority shall base the determination of intentional program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional program violation as defined in paragraph (c) of this section. 7 CFR 273.16(c)(6).

For FAP, the IPV exists when an administrative hearing decision, a repayment and disqualification agreement or court decision determines FAP benefits were trafficked. PAM 720, p. 2. The amount of the OI is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. BAM 720, p. 6.

In the present case, the Department has established that respondent was aware of the responsibility to report all income in the household and had no apparent limitations to fulfilling this requirement. The respondent had not reported her income throughout the time she received benefits and testified that she told her caseworker about her employment. This testimony of the Respondent is further supported by the two applications filed a month apart, wherein, the Respondent reported her employment with [REDACTED]. Based on the evidence presented, the Department did not establish that she intentionally failed to report her employment and income for the 6 month period in question. Thus, the Department did not establish an intentional program violation by the Respondent.

The Department is entitled to a recoupment of both FIP (cash assistance) and FAP (food stamps) benefits the Respondent received but was not entitled to.

The amount of the over-issuance contained in the Decision and Order and Findings of Fact was based on the documentary evidence submitted. As budgets for each month of the FAP over-issuance were submitted to establish the amounts of benefits that were received by the

claimant that she was not entitled to receive. Further, the Department also submitted a FIP spreadsheet that clearly established the amount of the FIP (cash assistance) benefits the Claimant was over-issued.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that respondent did not commit an IPV with regard to the FIP or FAP program, although, she received over-issuances in program benefits.

It is ORDERED that the Department is entitled to recoup for over-issuances in FAP benefits in the amount of \$1020.00.

It is ORDERED that the Department is entitled to recoup for over-issuances in FIP benefits in the amount of \$667.00.

The Respondent shall be required to reimburse the Department the FAP benefits ineligibly received in the amount of \$1020.00.

The Respondent shall be required to reimburse the Department the FIP benefits ineligibly received in the amount of \$667.00.

The Department's request for a finding of an intentional program violation is DENIED.



Lynn M. Ferris  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 06/11/10

Date Mailed: 06/11/10

2010-9210/LMF

**NOTICE:** The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

LMF/dj

cc:

