

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201010210
Issue No: 1052
Case No: [REDACTED]
Hearing Date: June 27, 2011
Delta County DHS

ADMINISTRATIVE LAW JUDGE: **Kandra Robbins**

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Department of Human Services (department) request for a disqualification hearing. After due notice, a hearing was held on June 27, 2011. Respondent was present and testified.

ISSUE

Whether respondent committed an Intentional Program Violation (IPV) of the Family Independence Program (FIP) and whether respondent received an overissuance of benefits that the department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing evidence on the whole record, finds as material fact:

1. Department's Office of Inspector General (OIG) filed a hearing request to establish an overissuance 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.
2. Respondent signed Assistance Application (1171) on November 13, 2008, acknowledging that she understood her failure to give timely, truthful, complete and accurate information could result in a civil or criminal action or an administrative claim against her (Department Exhibit 1, pages 6-20).
3. The respondent began work with [REDACTED] on January 6, 2009. (Department Exhibit 1, pgs 24-25).

4. The OIG indicates that the time period they are considering the fraud period is March of 2009 through June 2009. (Department Exhibit 1, page 34).
5. Respondent was physically and mentally capable of performing her reporting responsibilities.
6. Respondent has not committed any previous intentional FIP program violations.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), State Emergency Relief Manual (ERM) and the Bridges Reference Manual (BRM).

In this case, the department has requested a disqualification hearing to establish an overissuance of benefits as a result of an IPV and the department has asked that the respondent be disqualified from receiving benefits. The department's manuals provide the following relevant policy statements and instructions for department caseworkers:

When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700. A suspected intentional program violation means an overissuance 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.

The department suspects an intentional program violation when the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the client acted intentionally for this purpose. BAM 720.

The department's Office of Inspector General processes intentional program hearings for overissuance referred to them for investigation. The Office of Inspector General represents the department during the hearing process. The Office of Inspector General requests intentional program hearings for cases when:

- benefit overissuance are not forwarded to the prosecutor.

- prosecution of welfare fraud is declined by the prosecutor for a reason other than lack of evidence, and
- the total overissuance amount is \$1000 or more, or
- the total overissuance amount is less than \$1000, and
- the group has a previous intentional program violation, or
- the alleged IPV involves FAP trafficking, or
- the alleged fraud involves concurrent receipt of assistance,
- the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an IPV disqualifies that client from receiving program benefits. A disqualified recipient remains a member of an active group as long as he lives with them. Other eligible group members may continue to receive benefits. BAM 720.

Clients that commit an IPV are disqualified for a standard disqualification period except when a court orders a different period. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifetime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720. This is the respondent's first IPV.

The department is alleging that the respondent failed to report when she began working at the [REDACTED]. However, the respondent credibly testified that she did in fact report this income. She indicated that she had begun work there as a requirement of the Michigan Works program. She testified that her department caseworker and the Michigan Works caseworker were in constant communication regarding her employment. Since employment is a requirement of the Michigan Works, this is found to be credible. She stated that when the OIG agent spoke to her regarding this matter that she had reported this and perhaps it was included with her mother's case.

Department Exhibit 1 page 31 reflects that the respondent had completed a Verification of Employment that was submitted with her mother's application in May. Therefore, there is evidence that some of the reports from her case and her mother's case were in the wrong file. It is found that this was not an IPV, but was in fact an error. It is found that this was a department error. The respondent has credibly testified that she reported the income particularly as it was a component of the Michigan Works program. Furthermore, there are clearly errors in this file. Although the program benefits involved was the FIP program, there are department documents that refer to FAP. Although the over issuance is found to be the result of department error, policy requires that the respondent repay the amount of overissuance. (BAM 710)

Beginning in March 2009, the respondent was issued [REDACTED] in FIP benefits. The respondent was only entitled to receive [REDACTED] FIP benefits because of the household

income level. The respondent received [REDACTED] in FIP OI. The respondent does not dispute the overissuance amount. She insists that it was not an IPV.

The Administrative Law Judge, based upon the clear and convincing evidence, decides that overissuance to the respondent was the result of a department error in not reflecting the respondent's correct income in determining the FIP program allotment.

Therefore it is ORDERED that:

Respondent is responsible for full restitution of the [REDACTED] overissuance caused by department error.

/s/

Kandra Robbins
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 28, 2011

Date Mailed: June 29, 2011

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.

KR/ar

cc:

[REDACTED]