

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 10228  
Issue No: 3055, 6052  
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 did not appear at the hearing and it was held in respondent's absence pursuant to 7 CFR 273.16(e), MAC R 400.3130(5), or MAC R 400.3187(5). Derrick Gentry, 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 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.

2. Respondent was a recipient of FAP and CDC benefits during the period of 10/6/01 through 3/19/05.
3. Respondent was a recipient of CDC during periods she was not entitled because she was not working during the periods 10/06/01 thru 12/29/01; 10/05/02 thru 12/28/02 and 1/8/05 thru 3/19/05.
4. The Claimant's over-issuance for CDC benefits is \$1,413.20.
5. The Claimant filed a DHS 1171 application on April 10, 2003 requesting Medical, Food, and Child Day Care assistance. Exhibit 1, Item 1 pages 17 – 23. In this application, the Claimant reports that she is working for [REDACTED].
6. During the period the claimant filed 5 applications, Exhibits 2,3,4,5 and 6, and at no time mentioned her full time employment with [REDACTED] during the period June 20, 2003 through October 22, 2004. Exhibit 8 page 72
7. Respondent was aware of the responsibility to report a change in income and employment.
8. Respondent did not report a change in income in a timely manner.
9. The Claimant did not report to the Department the periods when she was not employed but still received child day care benefits. Exhibit 9 pages 82 through 85.
10. Respondent failed to report income and earnings for the purpose of receiving benefits to which respondent was not entitled.

11. As a result of the failure to report income, and receive CDC benefits while she was not employed, respondent committed an IPV and received an over-issuance of benefits.
12. As a result, respondent received over-issuances in the amount of \$2620 under the FS/FAP program and \$1413.20 under the CDC program.
13. The Department has established that respondent committed an IPV.
14. This was respondent's first for both the FS/FAP and CDC programs Intentional Program Violation.
15. A notice of disqualification hearing was mailed to respondent at the last known address and was not returned by the Post Office as undeliverable.

#### 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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Program Reference Manual ("PRM").

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are

contained 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.

PAM 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. PAM 720, p. 6.

In the present case, the Department has established that respondent was aware of the responsibility to report change in employment income and had no apparent limitations to fulfilling this requirement. The respondent failed to report change in employment income and at no time reported her employment with [REDACTED]. As a result, respondent committed an

IPV and was over-issued FS/FAP and CDC benefits. Additionally, the Claimant received CDC benefits during periods she was not working and was not entitled to benefits and did not report her change in employment. Under the aforementioned policy, respondent is to be disqualified from the FAP/FS programs and CDC program for a period of twelve (12) months.

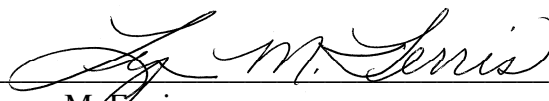
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that respondent committed an IPV with regard to the FAP and CDC programs and received over-issuances in program benefits.

It is ORDERED that respondent be disqualified from the FAP and CDC programs for a period of 12 months.

It is further ORDERED that the Department recoup for over-issuances in FAP benefits in the amount of \$2620.00 and CDC benefits in the amount of \$1413.20.

It is further ORDERED that the Respondent is required to repay the Department for FAP and CDC benefits over-issuances in the amounts set forth in this Decision and Order.

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

Date Signed: 06/11/10

Date Mailed: 06/11/10

**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

2010-10228/LMF

cc:

