

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 10962

Issue No.: 6052

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

May 5, 2010

Wayne County DHS 17

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

ORDER OF DISMISSAL

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). [REDACTED], OIG representative appeared on behalf of the Department.

ISSUE

Whether respondent committed an Intentional Program Violation (IPV) and whether the respondent received an overissuance 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 overissuance of benefits received by the respondent as a result of the respondent having committed an IPV. The OIG also requested that the respondent be disqualified from receiving program benefits.
2. Respondent was a recipient of CDC benefits during the period of 1/25/2004 through 3/19//2005.
3. The Department's request for hearing as it pertains to FIP was mailed to respondent at the last known address [REDACTED] and was returned by the US Post Office as undeliverable.

CONCLUSIONS OF LAW

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.

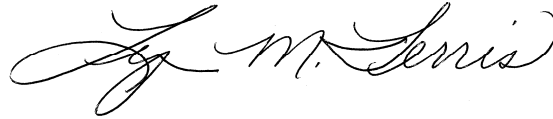
PAM 720, p. 1. The Federal Food Stamp regulations read in part:

(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).

In the present case, the Department requested an Intentional Program Violation hearing for CDC benefits respondent had received. However, the Department policy relating to CDC benefits do not authorize an Intentional Program Violation Disqualification hearing if the Notice of Hearing is returned by the post office as undeliverable. BAM 720 page 9.

DECISION AND ORDER

It is ORDERED that the Department's request for disqualification hearing for CDC Intentional Program Violation and recoupment is dismissed without prejudice.



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

Date Signed: 06/21/2010

Date Mailed: 06/21/2010

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/cjp

cc:

