

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED] 1

Reg. No.: 2010-23194
Issue Nos.: 3020, 3055
Case No.: [REDACTED]
Hearing Date: January 12, 2011
DHS County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department of Human Services' (Department) Office of Inspector General's (OIG) request for a hearing. After due notice, a telephone hearing was held on January 12, 2011. The OIG was represented by Agent [REDACTED]. 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).

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) 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 competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department's 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 was a recipient of Food Assistance Program (FAP) benefits during the period of January 2007 through March 2008.
3. Respondent was aware of the responsibility to report all household employment and income to the Department and had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.

4. Respondent and his spouse were employed and received earnings during the period of November 4, 2006 through March 19, 2008.
5. Respondent did not fully report all employment and income to the Department.
6. Respondent failed to report income and earnings for the purpose of receiving benefits to which Respondent was not entitled.
7. As a result, Respondent received overissuances in the amount of \$2,463.00 under the FAP program.
8. The Department has established that Respondent committed an IPV.
9. This was Respondent's first IPV.

CONCLUSIONS OF LAW

FAP (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 (formerly known as the Family Independence Agency) administers FAP pursuant to CML 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 Program Reference Manual (PRM).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM, Item 700, p. 1.

Suspected IPV means an OI exists for which all three of the following conditions exist:

- 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.

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, Item 720, p. 1.

The federal Food Stamp regulations read in part:

(c) Definition of Intentional Program Violation. Intentional Program Violation shall consist of having intentionally:

- (1) made a false or misleading statement, or misrepresented, concealed or withheld facts; or
- (2) committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

...

(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)(1, 2, 6).

The following disqualification periods to recipients determined to have committed IPV are applied:

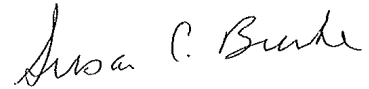
- One year for the first IPV
- Two years for the second IPV
- Lifetime for the third IPV
- Ten years for concurrent receipt of benefits

BAM 720, p. 13.

In the present case, the Department has established that Respondent was aware of the responsibility to report household income and had no apparent limitations to fulfilling this requirement. Respondent failed to report income and earnings with the intent of receiving benefits to which Respondent was not entitled. As a result, Respondent committed an IPV and was overissued FAP benefits. Under the aforementioned policy, Respondent is to be disqualified from the FAP program for a period of 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 program and received overissuances in program benefits. It is ORDERED that Respondent be disqualified from the FAP program for a period of 12 months. It is further ORDERED that the Department recoup for overissuances in FAP benefits in the amount of \$2,463.00.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 19, 2011

Date Mailed: January 20, 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.

SCB/pf

cc:

