

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

IN THE MATTER OF:

[REDACTED] 06
[REDACTED]

Reg. No.: 2010-46092
Issue Nos.: 1052, 3055
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 3, 2010
DHS County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and MCL 400.37 and on the Department of Human Services' (DHS) request for a hearing. After due notice, a telephone hearing was held on November 3, 2010. Respondent did not appear. [REDACTED] appeared and testified on behalf of DHS.

ISSUE

Did Respondent commit an Intentional Program Violation (IPV) of the Family Independence Program (FIP) and the Food Assistance Program (FAP)?

FINDINGS OF FACT

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

1. On April 3, 2001, and November 8, 2001, Respondent signed an application for FIP and FAP benefits with DHS. It is unknown whether benefits were awarded as a result of the 2001 application.
2. By signing the application, Respondent acknowledged receipt of the Acknowledgments, which provided additional information about receipt of benefits.
3. On April 4, 2002, DHS sent Respondent an Eligibility Notice which states twice, "You applied for assistance on April 1, 2002." The Eligibility Notice informed her she would be receiving FIP and FAP benefits as of April 1, 2002.

4. From April 18-October 3, 2002, Respondent received Unemployment Insurance (UI) benefits.
5. Respondent failed to report her UI to DHS.
6. From June 1-October 31, 2002, Respondent received a \$2,327 FIP overissuance (OI) and a \$685 FAP OI, totaling \$3,012.
7. On May 18, 2010, DHS requested repayment of \$2,327 FIP and \$685 FAP benefits from Respondent. Respondent failed to sign the DHS Repayment Agreement.
8. This is DHS' first allegation of IPV of the FIP program, and DHS' first allegation of IPV of the FAP program against Respondent.

CONCLUSIONS OF LAW

FIP was established by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 United States Code Sec. 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. DHS' FIP policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and MACR 400.3001-400.3015. DHS' FAP policies and procedures are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). *Id.*

In this case, DHS has requested findings of an IPV in the FIP and FAP programs and, in the event that the Administrative Law Judge makes these findings, DHS asks that Respondent be disqualified from receiving benefits. DHS requests the penalty for FIP and FAP first offenses in this case.

The applicable manual section in this case is BAM 720, "Intentional Program Violation." The definition of IPV is set forth on page 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 or CDC [Child Development and Care] provider 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.

I have examined all of the evidence and testimony in this case. I find that Respondent was awarded benefits in 2002 based on an application dated April 1, 2002. However, the April 1, 2002, application is not in the record. The 2001 application is the only application in the record.

I conclude that there is no evidence in this case to establish that Respondent knew of her reporting responsibilities with regard to her 2002 benefits. I believe that DHS wishes me to infer that Respondent's signatures in 2001 mean that she can be assumed to have full knowledge of her reporting responsibilities when she reapplied in 2002. Without more evidence, I decline to make this inference. I do not know what she signed and what she was given when she applied in 2002 and, without the actual 2002 application, I must not speculate as to what information she received at that time.

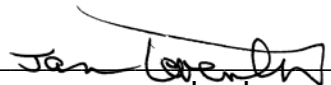
I find and conclude that there is no evidence in the record to establish that Respondent knew of her responsibilities with regard to her 2002 application and subsequent receipt of benefits. I conclude and determine that the second of the three conditions in BAM 720, the requirement of the client's knowledge of reporting responsibilities, has not been proven in this case and, therefore, no IPV occurred in this case. DHS' request for an Order that Respondent committed two IPV's is DENIED.

Notwithstanding my denial of the IPV violations, I find and conclude that FIP and FAP OIs occurred and DHS is entitled to recoup these monies. DHS is entitled to recoup \$2,327 FIP and \$685 FAP OIs in accordance with DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that DHS has not established IPVs of the FIP and FAP programs, and its request for an Order to that effect is DENIED. DHS is entitled to recoup \$3,012 FIP and FAP OI monies in accordance with policy and procedure.

IT IS SO ORDERED.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 8, 2010

Date Mailed: November 9, 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.

JL/pf

cc:

