

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-46374
Issue Nos.: 1052, 3055, 6052
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 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 Intentional Program Violations (IPVs) of the Family Independence Program (FIP), the Food Assistance Program (FAP) and the Child Development and Care (CDC) program?

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 March 8 and June 8, 2001, Respondent signed an application for FIP and FAP benefits. Her signature appears immediately after this printed statement:

IMPORTANT: YOU MUST SIGN THE APPLICATION
I certify that I have received and reviewed a copy of the Acknowledgments, that explains additional information about applying and receiving assistance benefits.
Department Exhibit 1, p. 18 (bold print in original).

2. On August 8, 2001, DHS awarded Respondent CDC benefits on a temporary basis.
3. From April 21-October 12, 2003, Respondent was employed as a Telephone Collections Representative at [REDACTED].
4. Respondent failed to report her employment [REDACTED] to DHS.
5. Respondent received overissuances (OIs) in FIP, CDC and FAP benefits.
6. On May 20, 2010, DHS sent Respondent an Intentional Program Violation Repayment Agreement. Respondent failed to sign and return the Agreement.
7. On October 1, 2010, DHS issued a Notice of Disqualification Hearing, scheduling a hearing in this matter for November 3, 2010.

CONCLUSIONS OF LAW

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

CDC was established by Titles IVA, IVE and XX of the U.S. 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 CFR, Parts 98 and 99. DHS provides CDC services to adults and children pursuant to MCL Section 400.14(1) and MACR 400.5001-400.5015. DHS' CDC policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). *Id.*

The applicable DHS manual section in this case is BAM 720, "Intentional Program Violation." The definition of an 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 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 received the Acknowledgments materials in 2001 at the time she signed the DHS application, and this is established by her signatures on the application. I find and conclude that Respondent was fully knowledgeable of her reporting responsibilities and intentionally failed to report her income from [REDACTED].

I find that Respondent failed to report income to DHS in violation of her responsibility to report changes in income within ten days of the change. I find that Respondent, by her failure to report income, committed three IPV's. DHS' request for a finding of IPV's of FIP, FAP and CDC is GRANTED.

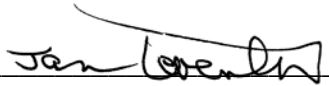
I next turn to the penalties DHS has requested in this case, which are first-time penalties of all three programs. I find the record does establish that first-time penalties are appropriate in FIP, FAP and CDC. DHS' request for designations of the three IPV's as first-time offenses is GRANTED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, GRANTS DHS' request for findings of IPV's of FIP, FAP and CDC. I further ORDER that the penalties for the violations shall be penalties for first-time IPV's with regard to these programs.

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It is further ORDERED that DHS is entitled to recoup \$4,279 from Respondent, based on FIP OI of \$1,855, FAP OI of \$1,151, and CDC OI of \$1,273. DHS may proceed in accordance with all policies and procedures.



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

Date Signed: November 9, 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:

