

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No: 201049716
Issue No: 3055
Case No: [REDACTED]
Hearing Date: June 13, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: **Kandra Robbins**

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Department of Human Services (department) request for an intentional program violation and disqualification hearing. After due notice, a hearing was held on [June 13, 2011](#). 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

1. Whether respondent committed an Intentional Program Violation (IPV) on the Food Assistance Program (FAP) and whether respondent received an overissuance of benefits that the department is entitled to recoup?
2. Whether respondent committed an IPV on the Family Independence Program (FIP) 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 clear and convincing evidence on the whole record, finds as material fact:

1. Department's Office of Inspector General (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 signed Assistance Application (1171) on February 26, 2007, acknowledging that she understood her failure to give timely, truthful,

- complete and accurate information could result in a civil or criminal action or an administrative claim against her. (Department Exhibit 1, pages 8-14).
3. Respondent reported that she intended to stay in Michigan on the application. (Department Exhibit 1, pages 8-14).
 4. The respondent received FIP benefits from the State of Michigan from June 2007 through April 30, 2008. (Department Exhibit 1, pages 30-34).
 5. The respondent began receiving FAP benefits from the State of Nebraska on June 1, 2007 through November 2007. (Department Exhibit 1, page 16-17).
 6. On October 12, 2007, the respondent filed a new Application for Assistance in Michigan. (Department Exhibit 1, pages 18-24).
 7. The respondent received FAP benefits from the State of Michigan from October 2007 through April 2008. (Department Exhibit 1, pages 30-34).
 8. In April 2008, the respondent submitted a forged Verification of Employment with [REDACTED]. (Department Exhibit 1, pages 26-27).
 9. On April 4, 2008, [REDACTED] submitted a Verification of Employment. (Department Exhibit 1, pages 28-29).
 10. The OIG indicates that the time period they are considering the fraud period for FIP is June 2007 through September 2007 and for FAP is January 2008 through April 2008. (Department Hearing Summary).
 11. During the alleged fraud period, the respondent was issued [REDACTED] in FAP benefits from the State of Michigan (Department Exhibit 1 page 35).
 12. Respondent was clearly instructed and fully aware of her responsibility to report any changes in residency to the department.
 13. Respondent was physically and mentally capable of performing his reporting responsibilities.
 14. Respondent has not committed any previous intentional FAP program violations.
 15. A Notice of Disqualification Hearing was mailed to the respondent at the last known address and was returned by the U.S. Post Office as undeliverable. Respondent's last known address is: [REDACTED].

CONCLUSIONS OF LAW

The Food Assistance Program (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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), State Emergency Relief Manual (ERM) and the Bridges Reference Manual (BRM).

In this case, the department has requested a hearing to establish an overissuance of benefits as a result of an Intentional program violation of the FAP and the FIP programs. The Department has asked that respondent be disqualified from receiving benefits. Department policy indicates that when correspondence to the client is returned as undeliverable, or a new address cannot be located, only FAP intentional program violation hearings will be pursued. BAM 720. Therefore, the FIP claim is dismissed without prejudice.

When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700. A suspected intentional program violation means an overissuance where:

- 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.

The department suspects an intentional program violation when the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the client acted intentionally for this purpose. BAM 720.

The department's Office of Inspector General processes intentional program hearings for overissuance referred to them for investigation. The Office of Inspector General represents the department during the hearing process. The Office of Inspector General requests intentional program hearings for cases when:

- benefit overissuance are not forwarded to the prosecutor.
- prosecution of welfare fraud is declined by the prosecutor for a reason other than lack of evidence, and
- the total overissuance amount is \$1000 or more, or
- the total overissuance amount is less than \$1000, and
- the group has a previous intentional program violation, or
- the alleged IPV involves FAP trafficking, or
- the alleged fraud involves concurrent receipt of assistance,
- the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an intentional program violation disqualifies that client from receiving program benefits. A disqualified recipient remains a member of an active group as long as he lives with them. Other eligible group members may continue to receive benefits. BAM 720.

Clients that commit an intentional program violation are disqualified for a standard disqualification period except when a court orders a different period. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifetime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720. This is the respondent's first intentional program violation.

In this case, the department has established that respondent was aware of the responsibility to report any changes in circumstances that might affect eligibility for services. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities. Department policy indicates that clients must report all changes that could potentially affect eligibility or benefits amount within ten days of when the client is aware of the change. BAM, item 507, p. 7.

Respondent received FAP benefits in 2008 from the State of Michigan. The respondent was required to report all household income to determine eligibility. However, the respondent failed to report employment at [REDACTED]. Based on clear and convincing evidence, it is found that respondent intentionally failed to inform the department that a member of the household was receiving income.

Beginning in January 2008, the respondent was issued [REDACTED] in FAP benefits. The respondent was only entitled to receive [REDACTED] FAP benefits because of the household income level. The respondent received [REDACTED] in FAP OI.

The benefits issued during this period were in error as the respondent was employed and receiving income. The respondent would not have been eligible to receive benefits if he had reported this income.

This Administrative Law Judge therefore concludes that the department has shown, by clear and convincing evidence, that respondent committed a first intentional violation of the FAP program and FIP program, resulting in a [REDACTED] overissuance. Consequently, the department's request for FAP and FIP disqualification and full restitution must be granted.

Based on clear and convincing evidence, it is found that the respondent intentionally committed the program violation as she failed to report income earned from [REDACTED]. When the respondent's employment was discovered and she was given a Verification of Employment, she submitted a fraudulent verification showing less income.

The FIP portion of the hearing request is dismissed without prejudice because the notice of the hearing was returned to the [REDACTED] as undeliverable. MAC R 400.3130(5); BAM 725.

The department has requested a 10 year disqualification because the respondent was receiving benefits from both Michigan and Nebraska. However, the evidence shows that the respondent was receiving FAP benefits in Nebraska from June 2007 through September 2007. There is no evidence that she was receiving FAP benefits from Michigan at this time. The only evidence presented shows FIP benefits during this time period. Therefore, there is no evidence of dual receipt of FAP benefits. BAM 203. Therefore, the disqualification is limited to one year as a first intentional program violation.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides respondent committed a first intentional FAP program violation.

Therefore it is ORDERED that:

1. Respondent shall be personally disqualified from participation in the FAP for one year. This disqualification period shall begin to run immediately as of the date of this Order.
2. Respondent is responsible for full restitution of the \$766.00 FAP overissuance caused by her IPV.
3. The FIP portion of the hearing request is dismissed without prejudice.

/s/

Kandra Robbins
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 17, 2011

Date Mailed: June 17, 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.

KR/ar

cc:

