

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: 2010-8298
Issue No: 3055
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 17, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 a disqualification hearing. After due notice, a hearing was held on March 17, 2010. Respondent personally appeared and testified.

ISSUE

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?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing evidence on the whole record, finds as material fact:

1. On November 6, 2009, the department's Office of Inspector General (OIG) filed a hearing request to establish an overissuance of FAP benefits received by respondent as a result of

respondent having committed an Intentional Program Violation (IPV); the OIG also requested that respondent be disqualified from receiving program benefits.

2. Department alleged that the respondent failed to report his employment in a timely manner, resulting in a FAP overissuance.

3. Respondent testified at the hearing that he reported his employment income to the Social Security Administration (SSA) office and thought that SSA would let DHS know about this income.

4. Respondent further testified that he is now 21 years of age and has been an SSI recipient for the last 10 years.

5. Respondent also testified that his grandmother is his legal guardian.

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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Departmental policy requires that department show that the respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities. BAM 720. Respondent testified that he had reported his employment income to SSA and assumed SSA would notify DHS of such income. Respondent further testified that he has been an SSI recipient for the last 10 years, his age now being 21, and that his grandmother is

his legal guardian. OIG representative at the hearing indicates that department's hearing request should be dismissed at this time, as it is questionable that the respondent fully understood his reporting responsibilities. OIG representative also indicates that respondent's alleged overissuance will be reviewed for possible future recoupment request.

DECISION AND ORDER

The Administrative Law Judge decides that department's request for a FAP disqualification and repayment of alleged overissued FAP benefits is DISMISSED without prejudice, due to respondent's questionable ability to understand his reporting responsibilities.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 19, 2010

Date Mailed: April 20, 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.

cc:

