

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: 2010-845
Issue No: 3055
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 3, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 3, 2010. Respondent did not appear. In accordance with Program Administrative Manual (PAM) 720 the hearing proceeds without Respondent.

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 clear and convincing evidence on the whole record, finds as material fact:

- (1) On January 29, 2008, Respondent submitted a re-determination application for Food Assistance Program (FAP) benefits. Respondent marked the application that she intended

to stay in Michigan. Respondent signed the application acknowledging her responsibility to report changes that would affect his eligibility.

(2) After February 5, 2008, all of the transactions on Respondent's electronic benefit card occurred in Nevada. Respondent did not report her change of residence.

(3) Respondent was no longer eligible for Food Assistance Program (FAP) benefits through the State of Michigan once she was no longer a resident of Michigan.

(4) Respondent was over-issued \$1,354 of Food Assistance Program (FAP) benefits between March 1, 2008 and July 31, 2009.

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).

In this case, the department has requested a disqualification hearing to establish an overissuance of benefits as a result of an IPV and the department has asked that respondent be disqualified from receiving benefits. The department's manuals provide the following relevant policy statements and instructions for department caseworkers:

PAM 720 INTENTIONAL PROGRAM VIOLATION

DEPARTMENT POLICY

All Programs

Recoupment policies and procedures vary by program and overissuance (OI) type. This item explains Intentional Program

Violation (IPV) processing and establishment. [PAM 700](#) explains OI discovery, OI types and standards of promptness. [PAM 705](#) explains agency error and [PAM 715](#) explains client error.

DEFINITIONS

All Programs

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.

FAP Only

IPV is suspected for a client who is alleged to have trafficked FAP benefits.

IPV

FIP, SDA and FAP

The client/authorized representative (AR) is determined to have committed an IPV by:

- A court decision.
- An administrative hearing decision.
- The client signing a DHS-826, Request for Waiver of Disqualification Hearing or DHS-830, Disqualification Consent Agreement or other recoupment and disqualification agreement forms.

Clear and convincing evidence is evidence that “produce[s] in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence so clear, direct, and weighty and convincing as to enable [the fact finder] to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue.” *In re Martin*, 450 Mich 204, 227; 538 NW2d 399 (1995), quoting *In re Jobes*, 108 NJ 394, 407-408; 529 A2d 434 (1987).

The fact that Respondent left Michigan 7 days after re-applying for benefits shows that she was misrepresenting her intentions to stay in Michigan.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides the following:

██████████ committed an intentional program violation for the Food Assistance Program (FAP) by intentionally failing to report her change of residence to another state. That intentional action was for the purpose of receiving benefits that she was not eligible for. The intentionally failure to report income caused an over-issuance of \$1,354 of Food Assistance Program (FAP) benefits.

The Department of Human Services is entitled to recoup the \$1.354 over-issuances of Food Assistance Program (FAP) benefits.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 17, 2010

Date Mailed: March 25, 2010

2010-845/GFH

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.

GFH [REDACTED]

cc:

[REDACTED]