

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 9133
Issue No: 3055, 3052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 5, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on May 5, 2010. The 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). Norman McKenzie, OIG representative appeared on behalf of the Department.

ISSUE

Whether respondent committed an Intentional Program Violation (IPV) and whether the respondent received an over-issuance of benefits that the Department is entitled to recoup?

FINDINGS OF FACT

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

1. The Department's Office of Inspector General (OIG) filed a hearing request to establish an over-issuance 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 was a recipient of FAP benefits during the period of April 2005 through 4/30/06.
3. Respondent was aware of the responsibility to report a change in income and accurately reporting all income and had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
4. Respondent did not report her employment income with [REDACTED] when she was rehired in September 2005.
5. The Respondent underreported the income of her son, a member of the FAP group, when she completed a DHS Form 1171 on June 16, 2005.
6. Respondent received more FAP benefits than she was otherwise entitled during the period 4/1/2005 through 4/30/2006. As a result of the failure to report the FAP group income of her son correctly and her employment which began in September 2005, respondent committed an IPV and received an over-issuance of benefits.
7. As a result, respondent received over-issuances in the amount of \$1714 under the FS/FAP program.
8. The Department has established that respondent committed an IPV.
9. This was respondent's first Intentional Program Violation.
10. A notice of disqualification hearing was mailed to respondent at the last known address and was returned "undelivered as person doesn't live here".

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI). PAM 700, p. 1. DHS must inform clients of their reporting responsibilities and prevent OIs by following BAM 105 requirements informing the client of the requirement to promptly notify DHS of all changes in circumstances within 10 days. BAM 700, BAM 105. Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.

An Intentional Program Violation (IPV) is suspected when there is clear and convincing evidence that the client 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. The Federal Food Stamp regulations read in part:

(6) Criteria for determining intentional program violation. The hearing authority shall base the determination of intentional program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional program violation as defined in paragraph (c) of this section. 7 CFR 273.16(c)(6).

For FAP, the IPV exists when an administrative hearing decision, a repayment and disqualification agreement or court decision determines FAP benefits were trafficked. BAM

720, p. 2. The amount of the OI is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. BAM 720, p. 6.

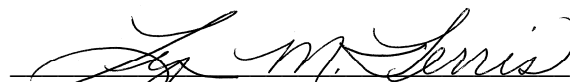
In the present case, the Department has established that respondent was aware of the responsibility to report change in household income and correctly report household income. Respondent received more FAP benefits than she was otherwise entitled to receive and had no apparent limitations to fulfilling this requirement. The respondent failed to report change in income for herself and underreported her son's income which resulted in an over-issuance of FAP benefits in the amount of \$1714. As a result, respondent committed an IPV and was over-issued FS/FAP. Under the aforementioned policy, respondent is to be disqualified from the FAP/FS programs for a period of one (1) year. BAM 720 page 12.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that respondent committed an IPV with regard to the FAP program and received over-issuances in program benefits.

It is ORDERED that respondent be disqualified from the FAP program for a period of one year.

It is further ORDERED that the Department recoup for over-issuances in FAP benefits in the amount of \$1714.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/29/10

Date Mailed: 07/01/10

2010-9133/LMF

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.

LMF/dj

cc:

