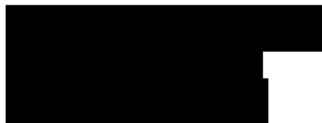


STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201114946  
Issue No: 3055/1052  
Case No: [REDACTED]  
Hearing Date: August 22, 2011  
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kandra K. 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 telephone hearing was held on August 22, 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).

**ISSUES**

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 Intentional Program Violation (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 Intentional Program Violation (IPV); the OIG also requested that Respondent be disqualified from receiving program benefits.
2. Respondent signed Assistance Application (1171) on June 17, 2008 and November 14, 2008, acknowledging that he understood his failure to give timely, truthful, complete and accurate information could result in a civil or

criminal action or an administrative claim against him. (Department Exhibit 1, pages 7-37).

3. Respondent did not report [REDACTED] income received by his two children. (Department Exhibit 1, pages 7-37).
4. Respondent's son [REDACTED] received [REDACTED] income beginning on [REDACTED] in the amount of [REDACTED] per month and his daughter [REDACTED] received [REDACTED] income beginning on [REDACTED] in the amount of [REDACTED] per month. (Department Exhibit 1, pages 78-80).
5. The Office of Inspector General indicates that the time period they are considering the fraud period is August 2008 through May 2009 for the FAP program and November 2008 through May 2009 for the FIP program. (Department Exhibit 1, pages 46-81).
6. During the alleged fraud period, the Respondent was issued [REDACTED] in FAP benefits and [REDACTED] in FIP benefits from the State of Michigan. (Department Exhibit 1 pages 46-81).
7. The Respondent was entitled to [REDACTED] in FAP benefit and [REDACTED] in FIP benefit during this time period. (Department Exhibit 1, pages 46-81).
8. Respondent was clearly instructed and fully aware of his responsibility to report any changes in income to the department.
9. Respondent was physically and mentally capable of performing his reporting responsibilities.
10. Respondent has not committed any previous intentional FAP or FIP program violations.

### **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 Food Assistance Program 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:

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 respondent intentionally failed to report household income. Respondent's two children were members of his household. Their income was required to be budgeted for benefits. The two children were receiving [REDACTED] income that was not reported. Respondent's signature on the application and monthly eligibility documents certifies that he was aware that fraudulent participation in FAP could result in criminal or civil or administrative claims. Because of Respondent's failure to report income, he received an overissuance and the department is entitled to recoup [REDACTED]. This is an overissuance of [REDACTED] in FAP and [REDACTED] in FIP benefits.

The benefits issued during this period were in error as the Respondent's household income was greater than reported. The Respondent would not have been eligible to receive benefits if he had reported this income.

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.

Respondent received FAP and FIP benefits from the State of Michigan. The Respondent was required to report all household income to determine eligibility. However, the Respondent failed to report [REDACTED] income received by his children. 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 August 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 Respondent received [REDACTED] in FIP Benefits. He was not entitled to receive FIP benefits. The Respondent received [REDACTED] in FIP OI. The Respondent received a total overissuance from the State of Michigan in the amount of [REDACTED].

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, resulting in a [REDACTED] overissuance and a first intentional violation of

the FIP program resulting in [REDACTED] overissuance. Consequently, the department's request for FAP and FIP disqualification and full restitution must be granted.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the clear and convincing evidence, decides respondent committed a first intentional FAP and FIP program violation. The Respondent committed this violation in order to receive FAP and FIP benefits.

Therefore it is ORDERED that:

1. Respondent shall be personally disqualified from participation in the FAP and FIP program 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 [REDACTED] FAP overissuance and [REDACTED] FIP overissuance caused by his Intentional Program Violation (IPV).

/s/  
Kandra K. Robbins  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: August 26, 2011

Date Mailed: August 29, 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.

KKR/db

cc: [REDACTED]