

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

IN THE MATTER OF:

[REDACTED]

Registration No: 201117915
Issue No: 3055
Case No: [REDACTED]
Hearing Date: November 2, 2011
Ingham County DHS

Administrative Law Judge: Corey A. Arendt

HEARING DECISION

This matter is before me in accordance with 7 CFR 273.16, MCL 400.9, MCL 400.37, and 1999 AC, R 400.3130, on the Department of Human Services' (the Department's) request for hearing. After due notice, a hearing was held on November 2, 2011, at which Respondent did not appear. The hearing was held in the absence of the Respondent in accordance with Bridges Administrative Manual (BAM) 720, pp 9-10. The Department was represented by its Office of Inspector General (OIG).

ISSUE

In dispute was whether Respondent committed an intentional program violation (IPV) involving the Food Assistance Program (FAP), thereby receiving an overissuance of benefits the Department is entitled to recoup.

FINDINGS OF FACT

Based on the clear and convincing evidence pertaining to the whole record, I find as material fact:

1. The Department's OIG filed a request for hearing to establish an over issuance of FAP benefits received as a result of a determination that Respondent committed an IPV.
2. On July 31, 2006, the Respondent signed an assistance application (DHS-1171). (Department's Exhibit 1).
3. Respondent acknowledged she understood her failure to give timely, truthful, complete, and accurate information about her circumstances could result in a civil or criminal action, or an administrative claim, against her. (Department's Exhibit 1).

4. From September 2006 through May 31, 2007, the Respondent received FAP benefits in the amount of [REDACTED]. (Department's Exhibit 3).
5. On June 9, 2007, the Respondent applied for State Emergency Relief (SER) benefits. On the application, the Respondent indicated her husband was self employed. (Department Exhibit 2).
6. On July 7, 2007, the Respondent's husband turned in Self-Employment Income and Expense Statements for the months of March, April and May 2007. (Department Exhibit 2).
7. From March 2007 through May 2007, the Respondent received an over issuance of FAP benefits totaling [REDACTED]. (Department Exhibit 3).
8. There was no apparent physical or mental impairment present that limited Respondent's ability to understand and comply with her reporting responsibilities.
9. This was the first determined IPV committed by Respondent.

CONCLUSIONS OF LAW

The FAP (formerly known as the Food Stamp (FS) program) was 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 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 Bridges Reference Manual (BRM).

In the present matter, the Department requested a hearing to establish an overissuance of FAP benefits, claiming that the overissuance was a result of an IPV committed by Respondent.

When a client or group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700, p 1. A suspected IPV is defined as an over issuance 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. [BAM 720, p 1.]

An IPV is suspected by the Department when a client intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing a reduction of, program eligibility or benefits. BAM 720, p 1. In bringing an IPV action, the agency carries the burden of establishing the violation with clear and convincing evidence. BAM 720, p 1.

Here, the OIG presented unequivocal evidence that Respondent did not report her husband's self employment until June of 2007. The failure of the Respondent to notify the Department, lead to an over issuance of FAP benefits as the Department was unable to properly determine and budget the Respondent's eligibility for FAP benefits. Because the Department could not provide any evidence that the self employment began prior to March 2007, I find the period of the IPV is only from March 2007 through May 2007 rather than September 2006 through May 2007.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, I find Respondent committed an intentional program violation from March 2007 through May 2007.

It is therefore ORDERED:

1. Respondent shall reimburse the Department for the FAP benefits ineligibly received as a result of her IPV in the amount of [REDACTED].

/s/

Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: November 3, 2011

Date Mailed: November 4, 2011

NOTICE: Respondent may appeal this decision and order to the circuit court for the county in which he / she resides within 30 days of receipt of this decision and order.

CAA/cr

cc:

