

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

IN THE MATTER OF:



Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department of Human Services (department) request for a disqualification hearing. After due notice, a telephone hearing was held on October 20, 2011, at which Respondent did not appear. This matter having been initiated by the department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) of the Food Assistance Program (FAP) and 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. Based on a department complaint, the department discovered that Respondent was concurrently receiving benefits in Georgia and Michigan and had not reported the income. (Department Exhibit 23).
2. On February 1, 2011, the department verified that Respondent had been concurrently receiving public assistance from Georgia in December 2007. (Department Exhibits 56-57).
3. Respondent received [REDACTED] in FIP benefits from February 2010 through July 2010, [REDACTED] in FAP benefits from November 2007 through December 2007 and [REDACTED] in FAP benefits from February 2010 through July 2010, while living out of state. If Respondent's actual resident had been properly reported, Respondent would not have been

eligible to receive any assistance from Michigan. (Department Exhibits 44-49, 50-55).

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 Reference Tables Manual (RFT).

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), and the Reference Tables Manual (RFT).

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 the respondent be disqualified from receiving benefits. When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700.

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 FIP and FAP program violations.

In this case, the department discovered Respondent was receiving concurrent FAP benefits from the state of Georgia during December 2007. In addition, her FAP EBT history showing she used her FAP benefits exclusively in Georgia from November 2007 through December 2007 and January 2010 through September 2010. The FIP summary also shows Claimant receiving FIP benefits from February 2010 through July 2010, while she was living in Georgia.

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 from November 2007 through December 2007 and February 2010 through July 2010, and a FIP overissuance of [REDACTED] from February 2010 through July 2010 for a total of [REDACTED]. Consequently, the department's request for a 10-year FAP and FIP program disqualification and full restitution must be granted.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent committed an Intentional Program Violation of the FAP and FIP programs by failing to report that she moved to Georgia and was receiving concurrent benefits from the state of Georgia for the period of time from November 2007 through December 2007 and February 2010 through July 2010. Therefore, it is ordered that:

1. Respondent shall be personally disqualified from participation in the FAP and FIP program for ten years, but the rest of the household may participate. This disqualification period shall begin to run immediately as of the date of this order.
2. The department is entitled to recoup the overissuance of benefits Respondent ineligibly received. Respondent is ORDERED to reimburse the department for the [REDACTED] FAP overissuance and [REDACTED] FIP overissuance caused by her intentional program violations.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/24/11

Date Mailed: 10/24/11

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.

VLA/ds

■ [REDACTED]