

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

IN THE MATTER OF:



Reg. No.: 201121347
Issue No.: 3052
Case No.: [REDACTED]
Hearing Date: August 24, 2011
Wayne County DHS (55)

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 Respondent's request for a hearing. After due notice, a telephone hearing was held on August 24, 2011. The Respondent appeared and testified. [REDACTED], Office of Inspector General appeared and testified on behalf of the Department.

ISSUE

Whether the Department is entitled to recoup an overissuance of Food Assistance (FAP) benefits.

Whether the Respondent committed an intentional program violation (IPV).

FINDINGS OF FACT

The Administrative Law Judge, based on 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 and IPV. The OIG also requested that Respondent be disqualified from receiving program benefits.
2. Respondent was a recipient of Food Assistance (FAP) during the period of June 1, 2008 through September 30, 2008.

3. Respondent was aware of the responsibility to report all household employment and income to the department and had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
4. Respondent was employed, and received earnings during the period of \$4151. Item 1 pages 12 and 13.
5. Respondent did not fully report all employment and income to the Department.
6. The Respondent did not report the reduction in her food stamp group size when her son was no longer in the FAP group, due to incarceration beginning May 7, 2008. The Respondent continued to receive FAP benefits based upon an incorrect group size.
7. Respondent failed to report income and earnings, reduction in the FAP group size for the purpose of receiving benefits to which Respondent was not entitled.
8. As result of Respondent received a FAP over issuance in the amount of \$1484 under the FAP program.
9. Budgets supporting the overissuance for the FAP program benefits were documented by the FAP budgets presented by the Department at the hearing. Item 5, pages 32 - 40.
10. The Department has established that the Respondent committed an Intentional Program Violation (IPV).
11. This was the Respondents first Intentional Program Violation.
12. A Notice of Disqualification hearing was mailed to the Respondent at the last known address and was not returned by the US Post Office as undeliverable.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

201121347/LMF

The Department must prevent over issuances by following BAM 105 requirements and by informing the client's of the following:

Applicants and recipients are required by law to give complete an electorate information about their circumstances.

Applicants and recipients are required by law to promptly notify the Department of all changes in circumstances within 10 days.

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 purposes of establishing, maintaining, increasing or preventing rejection of benefits for eligibility BAM 720 p. 1.

Under BAM 720 the amount of the over issuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. And over issuance is the amount of benefits issue to the client group in excess of what they were eligible to receive. The Department must use the actual income for the over issuance month in determining the over issuance.

The standard disqualification is used in all instances except when a court orders a different. The Department policy provides the following disqualification periods to FAP recipients determined to have committed IPV:

- One year for the first IPV
- Two years for the second IPV
- Lifetime for the third IPV, BAM 720, p. 13.

In the present case, the Department has established that Respondent was aware of the responsibility to report household income and change in group size and had no apparent limitations to fulfilling this requirement. The Respondent failed to report income and earnings, with the intent of receiving benefits to which Respondent was not entitled. As a result, Respondent committed and IPV and was over issued FAP benefits. Under the aforementioned policy Respondent is to be disqualified from the FAP program for a period of 12 months.

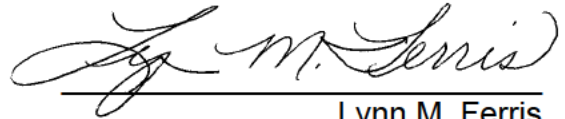
Based upon a thorough review of the documentary evidence, including verification of employment for the Respondent and the FAP budgets presented indicating that the FAP group's income when included reduced the FAP benefits the group was entitled to receive which was less than what the group received, the Department has proven the amount of the over issuance and the intentional program violation.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law finds that the Respondent committed and IPV with regards to the FAP program and received over issuance of FAP benefits in the amount of \$1484.

IT IS Ordered:

1. That the Respondent be disqualified from the FAP program for a period of 12 months.
2. It is further ordered that the department initiate debt collection procedures to recoup for over issuance of FAP benefits in the amount of \$1484.



Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 14, 2011

Date Mailed: September 14, 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.

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