

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-25216  
Issue No.: 3052  
Case No.: [REDACTED]  
Hearing Date: May 16, 2011  
DHS County: Wayne (82-15)

**ADMINISTRATIVE LAW JUDGE:** Jan Leventer

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on May 16, 2011. Claimant appeared and testified at the hearing. [REDACTED]

[REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

**ISSUE**

Whether DHS calculated Claimant's Food Assistance Program (FAP) benefits in accordance with DHS policies and procedures?

**FINDINGS OF FACT**

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

1. On January 25, 2011, Administrative Law Judge Michael Bennane, Michigan Administrative Hearing System (then State Office of Administrative Hearings and Rules) determined that Claimant committed a first Intentional Program Violation of the FAP program in the amount of \$5,005.
2. On March 2, 2011, DHS issued an Intentional Program Violation Client Notice, DHS Form 3050, advising Claimant of the consequences of the judicial finding of Intentional Program Violation.

3. The IPV Notice stated that Claimant would be removed as a FAP recipient for twelve months, and FAP benefits for the other group members would be reduced by 20% to \$244 per month.
4. On March 9, 2011, Claimant filed a notice of hearing request with DHS.

### **CONCLUSIONS OF LAW**

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at [www.michigan.gov/dhs-manuals](http://www.michigan.gov/dhs-manuals).

The DHS manuals are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

The first policy Item I will examine is BAM 720, "Intentional Program Violation." BAM 720 sets out the procedures for recoupment of benefits that were unlawfully received. BAM 720 states that the disqualified member remains a part of the benefit group as long as they live with the group, and the other members of the group may continue to receive FAP benefits. I find and decide that in this case, DHS has followed this section of BAM 720. BAM 720, p. 12.

BAM 720 next states that the standard disqualification period for a first FAP Intentional Program Violation (IPV) is twelve months. At the hearing, Claimant did not dispute the accuracy of this penalty. I find and determine that this penalty is properly administered in accordance with DHS policy and procedure. *Id.*, p. 13.

Next, BAM 725, "Collection Actions," states that the standard administrative recoupment percentage of ongoing FAP benefits is 20% in an IPV matter. I find and conclude that DHS acted correctly in imposing a 20% reduction of ongoing monthly FAP benefits according to BAM 725. BAM 725, p. 6.

In conclusion, based the findings of fact and conclusions of law above, I find and conclude that DHS acted correctly and shall be AFFIRMED in this case. DHS need take no further action with regard to this matter.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, states that DHS is AFFIRMED. DHS need take no further action with regard to this matter.



Jan Leventer  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: May 17, 2011

Date Mailed: May 18, 2011

**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JL/pf

cc:

