

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

IN THE MATTER OF:



Reg. No.: 2011 27773
Issue No.: 3052, 1052
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 Notice of Disqualification Hearing request. After due notice, a telephone hearing was held on August 24, 2011. The Respondent did not appear. Agent [REDACTED], Office of Inspector General, appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to recoup an overissuance of Food Assistance (FAP) benefits and FIP 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) and FIP cash assistance benefits during the period of 9/1/06 through 5/3/07. The Respondent failed to report earned income when she returned to work. Item 1.

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 by the Detroit Board of Education and received earnings during the period of 9/1/06 through 5/31/07. Item 1 pages 12 – 14.
5. Respondent did not fully report all employment and income to the Department.
6. Respondent was aware of her reporting responsibilities and when she applied for assistance 7/7/06, and reported that she was not employed. Item 2, Item 57, page 23.
7. Respondent failed to report income and earnings for the purpose of receiving FAP and FIP benefits to which Respondent was not entitled.
8. As result of Respondent's failure to report the earned income, her FAP benefits and FIP benefits were overissued in the amount of \$2989.00 (FAP) and \$1779 (FIP). Budgets supporting the overissuance for the FAP program and FIP program were documented by the FAP and FIP budgets presented by the Department at the hearing. Item 7, page 31 and pages 32 through 53.
9. The Department verified the income received by the Respondent that was not reported with the Respondent's employer. Item 1, pages 12 -14.
10. The Department has established that the Respondent committed an IPV.
11. This was the Respondents first Intentional Program Violation for the Food Assistance Program (FAP). This was the Respondents first Intentional Program Violation for the FIP cash assistance program.
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

2011 27773/LMF

Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and Michigan Administrative Code Rules R400.3101-3131. 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 Bridges Reference Manual (BRM)

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 and accurate 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 period. The Department policy provides the following disqualification periods for 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 had no apparent limitations to fulfilling this requirement. The Respondent failed to report income and earnings with the intent

2011 27773/LMF

of receiving benefits to which Respondent was not entitled. As a result of her failing to report income, Respondent received an overissuance in the total amount of \$4768 (\$2989 FAP; \$1779 FIP). The Department also established that the Respondent committed an IPV. 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 and FIP budgets presented indicating that the Respondent was over issued FAP benefits because the FAP group's gross income limit exceeded the limit and the Respondent was not eligible for FIP benefits due to excess income, the Department has proven the amount of the over issuance. The Department also proved an Intentional Program Violation by Respondent of the FIP and FAP programs.

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 FIP program and received over issuance of \$ 4768 in program benefits.

IT IS Ordered:

1. That the Respondent shall be disqualified from the FAP program for a period of 12 months.
2. That the Respondent shall be disqualified from the FIP program for a period of 12 months.
3. It is further ordered that the Department initiate collection procedure to recoup for over issuances of FAP and FIP benefits in the amount of \$4768, in accordance with Department policy.



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

Date Signed: September 1, 2011

Date Mailed: September 1, 2011

2011 27773/LMF

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 90 days of the filing of the original request.

The Respondent 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.

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