

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

IN THE MATTER OF:



Reg. No: 2011-3254
Issue No: 3055; 1052



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 May 24, 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. The department's Office of Inspector General (OIG) filed a hearing request to establish an overissuance of benefits received by Respondent as a result of Respondent having committed an Intentional Program Violation (IPV); the OIG also requested that Respondent be disqualified from receiving program benefits.
2. Respondent signed Assistance Application (DHS-1171) on July 12, 2005, and January 25, 2006, acknowledging that 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 Exhibits 8-15; 25-33).

3. Respondent submitted an Application for State Emergency Relief (SER) on January 9, 2006, and did not list her boyfriend as a member of her household. (Department Exhibits 22-24).
4. On November 23, 2005, [REDACTED] reported to the department that Respondent's boyfriend had moved into Respondent's household in June 2005. Respondent did not report her boyfriend as a member of her household on her July 12, 2005 assistance application or on her January 9, 2006 SER application. Respondent first reported he was in the home on her January 25, 2006 assistance application. (Department Exhibits 1-3, 8-15, 22-35, 43-54).
5. On September 5, 2006, the department received a Verification of Employment from Terex Corp., showing her boyfriend had been employed full-time since June 6, 2005. This income was not reported to the department. (Department Exhibits 37-39).
6. Respondent received [REDACTED] in FAP benefits during the alleged fraud period of September 2005 through March, 2006 and [REDACTED] in FIP benefits for the alleged fraud period of October 2005 through March, 2006. If the income had been properly reported and budgeted by the department, Respondent would only have been eligible to receive [REDACTED] in FAP benefits and would not have been eligible to receive FIP benefits. (Department Exhibits 60-89).
7. Respondent failed to report her boyfriend's income in a timely manner, resulting in a [REDACTED] FAP overissuance for the months of September 2005 through March, 2006, and a FIP overissuance in the amount of [REDACTED] for the months of October 2005 through March, 2006. (Department Exhibits 60-89).
8. Respondent was clearly instructed and fully aware of the responsibility to report all employment and income to the department.
9. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.
10. Respondent had not committed any previous intentional program violations of the FAP or FIP programs. (Department Hearing Request).

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 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 FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. The Department of Human Services (DHS or department) administers the FAP and FIP programs pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015 and MAC R 400.3101-3131 respectively. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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. The department's manuals provide the following relevant policy statements and instructions for department caseworkers.

When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700. A suspected intentional program violation means an overissuance 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.

The department suspects an intentional program violation when the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the client acted intentionally for this purpose. BAM 720.

The department's Office of Inspector General processes intentional program hearings for overissuances referred to them for investigation. The Office of Inspector General represents the department during the hearing process. The Office of Inspector General requests intentional program hearings for cases when:

- benefit overissuances are not forwarded to the prosecutor.
- prosecution of welfare fraud is declined by the prosecutor for a reason other than lack of evidence, and
 - the total overissuance amount is \$1000 or more, or
 - the total overissuance amount is less than \$1000, and

- the group has a previous intentional program violation, or
- the alleged IPV involves FAP trafficking, or
- the alleged fraud involves concurrent receipt of assistance,
- the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an intentional program violation disqualifies that client from receiving program benefits. A disqualified recipient remains a member of an active group as long as he lives with them. Other eligible group members may continue to receive benefits. BAM 720.

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 program violation of the FIP and FAP programs.

In this case, the department has established that Respondent was aware of the responsibility to report all income and employment to the department. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within ten days. BAM 105. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities.

Respondent's boyfriend moved in with Respondent in June 2005, as evidenced by the rental contract. Respondent completed applications for assistance on July 12, 2005 and January 9, 2006. On these applications, Respondent did not report that her boyfriend was a member of her household or that he had employment income. The department received a Verification of Employment on September 5, 2006, showing her boyfriend was employed full-time at Terex Corp., since June 6, 2005.

Respondent's signature on the Assistance Applications from July 12, 2005 and January 9, 2006, certifies that she was aware that fraudulent participation in FIP and FAP could result in criminal or civil or administrative claims. The Administrative Law Judge therefore concludes that the department has shown, by clear and convincing evidence, that Respondent committed a first intentional violation of the FIP and FAP programs, resulting in a [REDACTED] overissuance from October 2005 through March, 2006 and a first intentional violation of the FAP program resulting in a \$3,026.00 overissuance from September 2005 through March, 2006. Consequently, the department's request for FIP and FAP 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 by failing to report that her boyfriend was living with her and working while she was receiving FIP and FAP benefits for the period of time from September, 2005 through March, 2006.

Therefore, it is ordered that:

1. Respondent shall be personally disqualified from participation in the FIP and FAP programs for one year, 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 for a total of [REDACTED] 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: 5/26/11

Date Mailed: 5/26/11

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]