

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

IN THE MATTER OF:



Registration No: 201143900  
Issue No: 1052, 3055  
Case No: [REDACTED]  
Hearing Date: November 15, 2011  
Saginaw County DHS

**Administrative Law Judge:** Corey A. Arendt

**HEARING DECISION**

This matter is before me in accordance with 7 CFR 273.16, MCL 400.9, MCL 400.37, and 1999 AC, R 400.3130, on the Department of Human Services' (the Department's) request for hearing. After due notice, a hearing was held on November 15, 2011, at which Respondent did appear. The hearing was held in accordance with Bridges Administrative Manual (BAM) 720, pp 9-10. The Department was represented by its Office of Inspector General (OIG).

**ISSUE**

In dispute is whether Respondent committed an intentional program violation (IPV) involving the Food Assistance Program (FAP) and Family Independence Program (FIP), thereby receiving an over issuance of benefits the Department is entitled to recoup.

**FINDINGS OF FACT**

Based on the clear and convincing evidence pertaining to the whole record, I find as material fact:

1. The Department's OIG filed a request for hearing to establish a program disqualification and an over issuance of FAP and FIP benefits received as a result of a determination that Respondent committed an IPV.
2. On August 18, 2008, Respondent signed and submitted an assistance application (DHS-1171). (Department's Exhibit 1).
3. On June 18, 2009, Respondent signed and submitted a request for State Emergency Relief (SER). Respondent failed to indicate her employment at [REDACTED] on the SER. (Department's Exhibit 2).

4. On June 23, 2009, Respondent signed and submitted a redetermination (DHS 1010). Respondent failed to indicate her employment at [REDACTED] on the redetermination. (Department's Exhibit 3).
5. On January 6, 2010, Respondent signed and submitted a request for SER. Respondent failed to indicate her employment at [REDACTED] on the SER. (Department's Exhibit 4).
6. Respondent acknowledged 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's Exhibit 1, 2, 3, 4).
7. From May 18, 2009 through July 12, 2010, Respondent worked at [REDACTED]. (Department's Exhibit 6, 8).
8. From July 1, 2009 through August 31, 2009, Respondent received an over issuance of FIP benefits in the amount of [REDACTED]. From July 1, 2009 through March 31, 2010, Respondent received an over issuance of FAP benefits in the amount of [REDACTED]. (Department's Exhibit 5, 7).
9. At no point in time between May 18, 2009 and July 12, 2010 did the Respondent inform the Department as to her employment with [REDACTED].
10. There was no apparent physical or mental impairment present that limited Respondent's ability to understand and comply with her reporting responsibilities.
11. This was the second determined IPV committed by Respondent.

### **CONCLUSIONS OF LAW**

The FAP (formerly known as the Food Stamp (FS) program) was 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 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 Bridges Reference Manual (BRM).

The 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 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 BAM, BEM and the BRM.

In the present matter, the Department requested a hearing to establish an overissuance of FAP and FIP benefits, claiming that the overissuance was a result of an IPV committed by Respondent.

Here, the OIG presented unequivocal evidence that Respondent did not report employment with KMART. The failure of the Respondent to notify the Department lead to an over issuance of FAP and FIP benefits as the Department was unable to properly determine and budget the Respondent's eligibility for FAP and FIP benefits.

When a client or group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700, p 1. A suspected IPV is defined as an over issuance 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. [BAM 720, p 1.]

An IPV is suspected by the Department when a client intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing a reduction of, program eligibility or benefits. BAM 720, p 1. In bringing an IPV action, the agency carries the burden of establishing the violation with clear and convincing evidence. BAM 720, p 1.

Based on the credible testimony and other evidence presented, I have concluded the OIG established, under the clear and convincing standard, that Respondent committed an IPV in this matter. As at no time did the Respondent inform the Department of her employment as she knew she was required to do. This is the second time the Claimant has been found to have committed an intentional program violation.

### **DECISION AND ORDER**

Based on the above findings of fact and conclusions of law, I find Respondent committed an intentional program violation.

It is therefore ORDERED:

1. Respondent shall reimburse the Department for the FAP and FIP benefits ineligibly received as a result of her IPV in the amount of [REDACTED].

2. Respondent is disqualified from FAP benefits for a period of 24 months.
3. Respondent is disqualified from FIP benefits for a period of 24 months.

/s/

Corey A. Arendt  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: November 16, 2011

Date Mailed: November 17, 2011

**NOTICE:** Respondent may appeal this decision and order to the circuit court for the county in which he / she resides within 30 days of receipt of this decision and order.

CAA/cr

cc:

