

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-44506
Issue No.: 3055
Case No.: [REDACTED]
Hearing Date: November 8, 2011
County: Wayne-31

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 November 8, 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 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. On August 31, 2004, Respondent submitted an application for Child Development and Care, listing her employment as a shampoo girl earning [REDACTED] a week. (Department Exhibits 10-12).
2. On September 3, 2004, the department received a Verification of Employment showing Respondent was employed as a shampoo girl by Rhonda Finch, earning approximately [REDACTED] a week. (Department Exhibits 44-45).
3. On November 12, 2004, Respondent applied for Food Assistance Program (FAP) benefits, listing her employer as Rhonden Finch. (Department Exhibits 14-21).

4. Based on an OIG investigation, the department discovered that Respondent reported employment which could not be verified. (Department Exhibit 6).
5. On June 15, 2009, the department received information from the Michigan Department of Treasury that Respondent did not file a tax return for 2006, and only filed a MI 1040CR7 for 2005. (Department Exhibit 43).
6. The OIG alleges Respondent received [REDACTED] in FAP benefits during the alleged fraud period of January 2005 through June 2007. The report also notes that Respondent was paroled on April 29, 2007. (Department Exhibits 5-6).
7. The department submitted a Benefits Summary Inquiry showing Respondent received FAP benefits in the amount of \$6,696.00 from January 8, 2005 through December 2005, and [REDACTED] in FAP benefits from March 8, 2006 through December 8, 2006 for a total of [REDACTED] (Department Exhibits 31, 35, 41-42).
8. A Notice of Disqualification Hearing was mailed to the respondent at the last known address and was returned by the U.S. Post Office as undeliverable. Respondent's last known address is: [REDACTED].

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 (DHS or 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 Reference Tables Manual (RFT).

As a preliminary matter, the notice of the hearing was returned to the Post Office as undeliverable. Mich Admin Code, Rules 400.3130(5); BAM 725. Department policy indicates that when correspondence to the client is returned as undeliverable, or a new address cannot be located, only FAP intentional program violation hearings will be pursued. BAM 720. Therefore, the Child Development and Care (CDC) portion of this case will be dismissed without prejudice, and only the FAP intentional program violation will be addressed.

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.

In this case, Respondent applied for FAP benefits in November 2004, not August 31, 2004 as noted in the list of evidence. Furthermore, although the department is requesting an IPV for the time frame of January 2005 through June 2007, the department only provided a list of FAP issuances for January 2005 through December 2006. The department also noted that

Respondent was paroled on April 29, 2007, but was unable to explain how Respondent used the FAP benefits if she was in prison.

Therefore, this Administrative Law Judge concludes that the department has failed to show, by clear and convincing evidence, that Respondent committed a first intentional violation of the FAP program. Consequently, the department's request for FAP program disqualification and full restitution must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department failed to show by clear and convincing evidence that Respondent committed a first intentional program violation of the FAP program.

Accordingly, the department's actions are REVERSED.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 11/10/11

Date Mailed: 11/10/11

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

