

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

IN THE MATTER OF:



Reg. No: 201145863
Issue No: 3055
Case No: [REDACTED]
Hearing Date: August 31, 2011
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on August 31, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly sanctioned the claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The claimant signed a disqualification consent agreement in January of 2009. (Department Exhibit 5).
2. The claimant also signed a repayment agreement in January of 2009. (Department Exhibit 6).
3. The claimant filed a request for hearing on July 5, 2011 regarding her Medical Assistance (MA benefits as well as her Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

As a preliminary matter, the claimant indicated in her hearing request that she was requesting a hearing regarding her MA and FAP cases. MAC 400.903 lays out instances where recipients of assistance have a right to an administrative hearing within

the Michigan DHS. This rule specifies when an opportunity for a hearing shall be granted:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC 400.903(1).

At the time of the hearing, the claimant and the department agreed that the claimant's MA case had been reinstated and the department further agreed to grant any retroactive benefits that the claimant may otherwise be entitled to for her MA case. The claimant was only without coverage for the month of July, 2011 and the department agreed to apply any applicable coverage retroactively for the claimant for that period. Therefore, the claimant is no longer aggrieved by any department action relating to her MA case and it is not necessary for this Administrative Law Judge to hear that portion of the claimant's hearing request.

It should also be noted that the claimant had filed another hearing request on June 15, 2011 protesting the decision made by an Administrative Law Judge prior to this hearing. The claimant was explained that filing a hearing request regarding that decision was not the proper course of action and that this Administrative Law Judge did not have authority to hear such a request.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) was established pursuant to 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 400.30001-3015. The Adult Medical Program (AMP) was established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is also administered by the department pursuant to MCL 400.10, *et seq.* Department policies for both programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

According to policy, in relation to an intentional program violation, a claimant is considered to have committed an intentional program violation when,

IPV FIP, SDA and FAP

The client/authorized representative (AR) is determined to have committed an IPV by:

- A court decision.
- An administrative hearing decision.
- The client signing a DHS-826, Request for Waiver of Disqualification Hearing or DHS-830, Disqualification Consent Agreement or other recoupment and disqualification agreement forms. 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.

In this case, the claimant signed a disqualification consent agreement as well as an intention program violation repayment agreement in January of 2009. The claimant subsequently had a criminal case brought against her for welfare fraud over [REDACTED] in violation of MCL 400.601B, which appears was dismissed by the circuit court judge after motion of the defendant (in this case the claimant). (see Department Exhibit 3). The claimant is arguing that because her case was dismissed by the circuit court judge that she should not be subject to the sanctions imposed on her for the intentional program violation.

The claimant's argument is misplaced as it assumes that the criminal matter brought on behalf of the people of the state of Michigan is necessarily tied to the administrative matter that involves the intentional program violation. The two cases are in fact separate and distinct matters. Both matters have a different standard of proof and one matter carries the potential for incarceration where the other matter does not. Because these two matters are not interdependent on one another, this Administrative Law Judge is not required to set aside the agreements that the claimant signed in relation to the intentional program violation. Therefore, because the claimant signed the consent and repayment agreements, and those admissions constituted a third intentional program violation, the department acted properly in accordance with policy in sanctioning the claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in sanctioning the claimant's FAP benefits.

Accordingly, the department's actions are **AFFIRMED**. It is SO ORDERED.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 15, 2011

Date Mailed: September 16, 2011

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.

CSS/cr

cc:

