

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

IN THE MATTER OF:

[REDACTED]

Registration No: 201147692
Issue No: 3055
Case No: [REDACTED]
Hearing Date: November 8, 2011
Genesee County DHS #6

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 8, 2011, at which Respondent did not appear. The hearing was held in the absence of the Respondent in accordance with Bridges Administrative Manual (BAM) 720, pp 9-10. The Department was represented by the Office of Inspector General (OIG).

ISSUE

In dispute is whether Respondent committed an intentional program violation (IPV) involving the Food Assistance Program (FAP), thereby receiving an overissuance 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 benefits received as a result of a determination that Respondent committed an IPV.
2. On July 28, 2005, the Respondent signed an assistance application (DHS-1171). (Department's Exhibit 1)
3. 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)
4. From February 1, 2006 through July 31, 2006, the Claimant received FAP benefits. (Department Exhibit 3)

5. From February 1, 2006 through July 31, 2006, Respondent used her Michigan Electronic Benefits Transfer (EBT) card exclusively in the State of Indiana. (Department Exhibit 2, 3)
6. From February 2006 through July 31, 2006, the Respondent received an over issuance of FAP benefits totaling [REDACTED]. (Department Exhibit 3)
7. There was no apparent physical or mental impairment present that limited Respondent's ability to understand and comply with his reporting responsibilities.
8. This was the first 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).

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

To be eligible for FAP benefits, a person must be a Michigan resident. For FAP purposes, a person is considered to be a Michigan resident if he/she is living in the State, except for vacationing, even if he/she has no intent to remain in the State permanently or indefinitely. BEM 220, p 1. Generally, a client is responsible for reporting any change in circumstances, including a change in residency, that may affect eligibility or benefit level within ten days of the change. BEM 105, p 7.

Here the OIG provided unequivocal evidence that Respondent became a resident of Indiana as early as February 2006, when she began using her EBT card exclusively in Indiana. On that date, the Respondent was no longer eligible to receive FAP benefits. BEM 220, p 1. But, Respondent continued to receive such benefits from the State of Michigan between February 1, 2006 and July 31, 2006.

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 move to the State of Indiana as she knew she was required to do.

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 benefits ineligibly received as a result of her IPV in the amount of [REDACTED].
2. Respondent is disqualified from FAP for a period of 12 months.

/s/

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

Date Signed: November 8, 2011

Date Mailed: November 9, 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:

[REDACTED]