

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

IN THE MATTER OF:

[REDACTED]

Flint, MI 48505

Registration No: 2010-49875

Issue No: 1052; 4060

[REDACTED]

Genesee County DHS-06

Administrative Law Judge: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge 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 August 17, 2011. The Department was represented by an agent of its Office of Inspector General (OIG) but Respondent did not appear. A copy of the Notice of Hearing and related documents were sent to Respondent's last known address and was not returned by the post office. After due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual (BAM), 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 November 6, 2003 and on October 23, 2004, 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 21-25; 26-30).
3. Respondent failed to report to the Department that she was employed at Genesys Regional Medical Center since June 14, 2004 and had earned income from this employer. (Department Exhibits 30-39).
4. The Department discovered Claimant's earned income from [REDACTED] by a wage match on April 28, 2005. (Department Exhibits 30-39).
5. Respondent received [REDACTED] in FIP benefits during the alleged fraud period of October, 2004 through November, 2004 and [REDACTED] in FAP benefits for the alleged fraud period of October 1, 2004 through October 31, 2004. If the income had been properly reported and budgeted by the department, Respondent would only have been eligible to receive [REDACTED] in FIP benefits and [REDACTED] in FAP benefits. (Department Exhibits 3-6, 46-48).
6. Respondent failed to report her earned income in a timely manner, resulting in a \$978.00 FIP overissuance for October through November, 2004 and a FAP overissuance in the amount of [REDACTED] from October 1, 2004 though October 31, 2004. (Department Exhibits 3-6, 46-48).
7. Respondent was clearly instructed and fully aware of the responsibility to report all employment and income to the department.
8. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.
9. This is Respondent's second intentional program violations of both the FAP and 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 had been employed at Genesys Regional Medical Center since June, 2004, as evidenced by wage reports and documents from her employer. Respondent completed applications for assistance on November 6, 2003 and on October 23, 2004. On these applications, Respondent did not report that she had employment income from Genesys. The department received verification of her employment on April 28, 2005.

Respondent's signature on the Assistance Applications 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 her second intentional violation of the FIP and FAP programs, resulting in a [REDACTED] FIP overissuance for October through November, 2004 and a FAP overissuance in the amount of [REDACTED] from October 1, 2004 through October 31, 2004. 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 earned income from her employer, Genesys Regional Medical Center, while she was receiving FIP and FAP benefits for the period of time from October, 2004 through November, 2004.

Therefore, it is ordered that:

1. Respondent shall be personally disqualified from participation in the FIP and FAP programs for two years for her second penalty, 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 \$978.00 FIP overissuance for a total of [REDACTED] caused by her intentional program violations.

It is SO ORDERED.

/S/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/26/11

Date Mailed: 8/29/11

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.

CAP/ds

[REDACTED]