

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

IN THE MATTER OF:



Reg. No: 20116092
Issue No: 3055
Case No: [REDACTED]
Hearing Date: June 13, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: **Kandra Robbins**

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Department of Human Services (department) request for an Intentional Program Violation (IPV) and disqualification hearing. After due notice, a telephone hearing was held on June 13, 2011. Respondent did not appear at the hearing and it was held in respondent's absence pursuant to 7 CFR 273.16(e), MAC R 400.3130(5), or MAC R 400.3187(5).

ISSUE

Whether respondent committed an IPV on 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. 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 IPV; the OIG also requested that respondent be disqualified from receiving program benefits.
2. Respondent signed Assistance Application (1171) on December 6, 2004, and again on May 11, 2005, acknowledging that she understood her failure to give timely, truthful, complete and accurate information could result in a civil or criminal action or an administrative claim against her. (Department Exhibit 1, pages 7-22).

3. Respondent listed her son, [REDACTED] as a member of her household. (Department Exhibit 1, pages 7-22).
4. Respondent did not report [REDACTED] employment with [REDACTED] from 2004 through 2006. (Department Exhibit 1, pages 25-28).
5. The OIG indicates that the time period they are considering the fraud period is December 1, 2004, through March 31, 2006, for the FAP. (Department Hearing Summary).
6. During the alleged fraud period, the respondent was issued [REDACTED] in FAP benefits from the State of Michigan. (Department Exhibit 1, page 30).
7. The respondent was entitled to [REDACTED] in FAP benefit during this time period. (Department Exhibit 1, pgs 30-60).
8. Respondent was clearly instructed and fully aware of her responsibility to report any changes in income to the department.
9. Respondent was physically and mentally capable of performing his reporting responsibilities.
10. Respondent has committed one previous intentional FAP program violations. (Department Exhibit 1, pages 61-62).

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), Reference Table Manual (RFT), State Emergency Relief Manual (ERM) and the Bridges Reference Manual (BRM).

In this case, the Department has requested a hearing to establish an overissuance of benefits as a result of an Intentional program violation of the Food Assistance Program and the Department has asked that Respondent be disqualified from receiving benefits. 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 overissuance 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 overissuance 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 second intentional program violation.

In this case, the department has established that respondent was aware of the responsibility to report any changes in circumstances that might affect eligibility for services. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities. Respondent received FAP

benefits in 2004 through 2006 from the State of Michigan. The respondent was required to report all household income to determine eligibility. However, the respondent failed to report a member of her household's employment at Interstate Management. Based on clear and convincing evidence, it is found that respondent intentionally failed to inform the department that a member of the household was receiving income.

Beginning in December 2004, the respondent was issued [REDACTED] 0 in FAP benefits. The respondent was only entitled to receive [REDACTED] FAP benefits because of the household income level. The respondent received [REDACTED] in FAP OI.

The benefits issued during this period were in error as the respondent household income was greater than reported. The respondent would not have been eligible to receive benefits if she had reported this income.

The respondent committed a previous intentional program violation. She was sanctioned beginning on May 1, 1996.

This Administrative Law Judge therefore concludes that the department has shown, by clear and convincing evidence, that respondent committed a second intentional violation of the FAP program, resulting in a \$4,367.00 overissuance. Consequently, the department's request for FAP disqualification and full restitution must be granted.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides respondent committed a second intentional FAP program violation. The Respondent committed this violation in order to receive FAP benefits.

Therefore it is ORDERED that:

1. Respondent shall be personally disqualified from participation in the FAP program for two years. This disqualification period shall begin to run immediately as of the date of this Order.
2. Respondent is responsible for full restitution of the [REDACTED] FAP overissuance caused by her IPV.

/s/

Kandra Robbins
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 17, 2011

Date Mailed: June 17, 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.

KR/ar

cc:

