

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

IN THE MATTER OF:



Reg. No. 2011-8977
Issue No. 3055
Case No. [REDACTED]
Hearing Date: July 20, 2011
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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) Office of Inspector General's (OIG) request for a hearing. After due notice, a telephone hearing was held on July 20, 2011 in Detroit, Michigan. The OIG was represented by [REDACTED]. Respondent appeared at the hearing and testified.

ISSUES

Did the Respondent commit an Intentional Program Violation (IPV)?

Did Respondent receive an overissuance of benefits that the Department is entitled to recoup?

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 Department's 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 was a recipient of Food Assistance Program (FAP) benefits during the period from April 2010 through August 2010.

3. Respondent was aware of the responsibility to report all household changes, and had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
4. Respondent did not comply with the Department requirement and intentionally gave incomplete or inaccurate information regarding his out-of-state residency from February 2010 through August 2010 for the purpose of receiving benefits to which Respondent was not entitled.
5. As a result, Respondent received overissuances in the amount of \$1,000.00 under FAP.
6. The Department has established that Respondent committed an IPV.
7. This was Respondent's first IPV.

CONCLUSIONS OF LAW

FAP 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 administers the FAP program pursuant to CML 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 Program Reference Manual (PRM,) which includes the Reference Tables (RFT).

When a client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM, Item 700, p. 1.

Suspected IPV means an OI exists for which all three of the following conditions exist:

- 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**

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- The client has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill their reporting responsibilities.

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IPV is suspected when there is clear and convincing evidence that the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. BAM, Item 720, p. 1.

The following disqualification periods to recipients determined to have committed IPV are applied:

- One year for the first IPV
 - Two years for the second IPV
 - Lifetime for the third IPV
 - Ten years for concurrent receipt of benefits
- BAM 720, p.13

With regard to the facts of this case, also see Michigan Administrative Code (MAC) R. 400.400.3006, Temporary absence from home:

Rule 6. (1) A person is temporarily absent from the home if all of the following provisions apply:

- (a) The person's location is known.
- (b) There is a definite plan for the person's return.
- (c) The person lived with the group before the absence.
- (d) The absence has lasted or is expected to last 30 calendar days or less.

(2) The 30-calendar-day provision in subrule (1)(d) of this rule does not apply if the absence is due to hospitalization.

(3) A person who is temporarily absent as specified in subrules (1) and (2) of this rule is considered to be living in the home and continues to receive assistance.

In the present case, the Department has established by clear and convincing evidence that Respondent was aware of the responsibility to report complete and accurate information regarding household changes and had no apparent limitations to fulfilling this requirement. Respondent did not deny that he received the Information Booklet from the Department at the time of his application for benefits, and that he was aware of the responsibility to report household changes. Respondent admitted at the hearing that he did not inform the Department that he was residing in [REDACTED] from February 2010 through August 2010 while he was assisting a friend who had broken his leg. Respondent said he intended to return to Michigan, and Respondent did eventually

return to Michigan, but in September of 2010 Respondent spoke with an OIG representative, stating that he had no idea when he would return to Michigan.

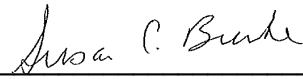
MAC 400.3006, Rule 6, is instructive, detailing that a person is considered to be temporarily absent from home if there is a definite plan for that person's return and the absence is expected to last thirty calendar days or less. I am convinced that Respondent failed to comply with the requirement to report completely and accurately information regarding his change of circumstance, as he was away from the State of Michigan well in excess of thirty days, and he admitted to the OIG representative he had no idea when he would return to Michigan.

As a result of Respondent's failure to report household changes, Respondent committed an IPV and was overissued FAP benefits in the amount of \$1,000.00 from April of 2010 through August of 2010. Under the aforementioned policy, Respondent is to be disqualified from FAP for a period of twelve months for a first-time IPV.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Respondent committed an IPV with regard to FAP and received overissuances in program benefits. It is ORDERED:

1. The Department shall disqualify Respondent from FAP for a period of twelve months.
2. The Department shall recoup from Respondent for overissuances in FAP benefits the amount of \$1,000.00.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 26, 2011

Date Mailed: July 26, 2011

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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

SB/cl

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