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

IN THE MATTER OF:



Reg. No. 2011-8986

Issue No. 3055

Case No. 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 40 0.37 up on the De partment of Hu man Services' (Department) Office of Inspector General's (OIG) request for a hear ing. After due notice, a telephone hearing was held on July 20, 2011 in Detroit, Michigan. The OIG was represented by 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).

#### **ISSUES**

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

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

#### FINDINGS OF FACT

The Admin istrative Law Judge, based upo n the competent, ma terial, and substantial evidence on the whole record, finds as material fact:

 The Department's O IG 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 Re spondent be disqualified from receiving program benefits.

- 2. Respondent was a recipient of Food Assistance Program (FAP) benefits du ring the period from November 2009 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 for the purpose of receiving benefits to which Respondent was not entitled.
- 5. As a result, Respond ent received ov erissuances in the amount of \$2,000.00 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 4 00.3001-3015. De partment 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 overiss uance (OI). BAM, Item 700, p. 1.

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

- The cl ient intentionally f ailed to report information or intentionally gave in complete 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.

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

The following disqual ification period s 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

In the present case, the Department has e stablished that Respondent was aware of the responsibility to report complete and accurate information regarding household changes and had no apparent limitations to fulfil ling this r equirement. Respondent signed an application for assistan ce, and by doing so acknowledged receiving a booklet which enumerated said responsibility. Respondent failed to comply with requirements to report completely and accurately information regarding his change of residence to As a result, Respondent committed an IPV and was overissued FAP benefits. Under the aforementioned policy, Respondent is to be disqualified from FAP for a period of twelve months.

#### **DECISION AND ORDER**

The Administrative Law Judge, b ased upon the above findings of fact and conclusions of law, fin ds that Respondent committed an IPV w ith regard to FAP and received overissances in program benefits. It is ORDERED:

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

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

Date Signed: July 26, 2011

Date Mailed: July 26, 2011

<u>NOTICE:</u> The law pro vides 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

CC:

