

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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) request for a disqualification hearing. After due notice, a telephone hearing was held on October 20, 2011, at which Respondent did not appear. This matter having been initiated by the department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) of 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. Based on a PARIS match, the department discovered that Claimant was concurrently receiving benefits in [REDACTED] and had not reported the income. (Department Exhibits 3, 40-41).
2. On April 21, 2010, the department verified that Claimant had applied for FAP benefits in [REDACTED] on July 16, 2009 and received FAP benefits from July 2009 through November 2009 from the state of Kentucky. (Department Exhibit 38).
2. Respondent received [REDACTED] in Michigan FAP benefits during the alleged fraud period of July 2009 through April 2010. If Respondent had reported he was receiving concurrent benefits from the state of [REDACTED] during this time frame, Claimant would not have been eligible to receive

FAP benefits from the state of Michigan. (Department Exhibits 29-31, 35-37).

3. A Notice of Disqualification Hearing was mailed to the respondent at the last known address and was returned by the U.S. Post Office as undeliverable. Respondent's last known address is: [REDACTED]

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) and the Reference Tables Manual (RFT).

As a preliminary matter, the notice of the hearing was returned to the Post Office as undeliverable. Mich Admin Code, Rules 400.3130(5); BAM 725. Department policy indicates that when correspondence to the client is returned as undeliverable, or a new address cannot be located, only FAP intentional program violation hearings will be pursued. BAM 720. Because this is a FAP intentional program violation, the department was allowed to proceed.

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. When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700.

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.

In this case, the department discovered Respondent was receiving concurrent FAP benefits from the state of Kentucky. The EBT history showed Claimant used his Michigan FAP benefits exclusively in Kentucky from July 9, 2009. According to the state of Kentucky, Claimant applied for expedited FAP benefits on July 16, 2009 and began receiving FAP benefits from July 2009 through November 2009. Respondent failed to timely report this income to the department or that he had moved out of Michigan.

This Administrative Law Judge therefore concludes that the department has shown, by clear and convincing evidence, that Respondent committed a first intentional violation of the FAP program, resulting in a \$2,000.00 overissuance from July 2009 through April

2010. Consequently, the department's request for a 10-year 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 of the FAP program by failing to report that he was receiving concurrent benefits from the state of Kentucky for the period of time from July 2009 through April 2010.

Therefore, it is ordered that:

1. Respondent shall be personally disqualified from participation in the FAP program for ten years, 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 caused by his intentional program violation.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/20/11

Date Mailed: 10/20/11

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.

VLA/ds

■ [REDACTED]