

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

IN THE MATTER OF:



Reg. No: 201113088
Issue No: 3055, 2006
Case No: [REDACTED]
Hearing Date: July 6, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 July 6, 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 Medical Assistance Program (MA)?

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 completed an application for public assistance on April 25, 2008 (DHS 1171), acknowledging her responsibility to report any changes in her income, resources, or living arrangement to the department within ten days of the change. (Department Exhibit 7-21).
3. Respondent subsequently moved at Arizona in September of 2008.
4. Respondent continued to use her EBT card supplied by the department while she was in Arizona. (Department Exhibit 23-28).

5. As a result of her continued use of her EBT card while in Arizona, the Respondent received a FAP benefit over issuance for the period of October 1, 2008 though May 31, 2009 in the amount of [REDACTED]. (Department Exhibit 36-37).
6. Respondent signed and returned a repayment agreement pertaining to the over issuance of FAP and MA benefits but did not sign a disqualification agreement. (Department Exhibit 38-39).
7. Respondent was clearly instructed and fully aware of the responsibility to report true and accurate information 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. Respondent had not committed any previous intentional program violations. (Department Hearing Request).
10. 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 Program Reference Manual (PRM).

As a preliminary matter, the notice of the hearing was returned to the Post Office as undeliverable. MAC R 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. Therefore, the MA portion of this matter could not be continued and must be dismissed. However, because this case contains a FAP intentional program violation, the department was allowed to proceed on that portion only.

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.

In this case, Respondent failed to notify that department that she had relocated to Arizona. While in Arizona, the Respondent continued to use her department provided EBT card. The use of this card was improper as the Respondent was ineligible for FAP benefits because she was no longer a resident of the State of Michigan. Because Respondent continued to use FAP benefits after she was no longer a resident of the State of Michigan and therefore ineligible, the Respondent committed an intentional program violation resulting in an over issuance of FAP benefits in the amount of \$2,672.00 for the period of October 1, 2008 through May 31, 2009. Because this is the Respondent's first IPV, the one year disqualification period is appropriate.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds clear and convincing evidence that the Respondent committed an Intentional Program Violation by failing to notify the department that she was no longer a resident of the State of Michigan and continuing to use FAP benefits while not eligible.

Therefore, it is HEREBY ORDERED that:

1. The Respondent shall reimburse the department for FAP benefits ineligibly received as a result of her intentional program violation in the amount of [REDACTED].
2. The Respondent is personally ineligible to participate in the FAP program for the period of one year. The disqualification period shall be applied immediately.
3. The portion of this case pertaining to the MA IPV is hereby DISMISSED WITHOUT PREJUDICE.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 14, 2011

Date Mailed: July 15, 2011

201113088/CSS

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.

CSS/cr

cc: JAMILA ADAMS
Genesee County DHS
M. Spitzley
M. Holden
K. Vaughn
M. Best
S. S. Saunders
Administrative Hearings