

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

IN THE MATTER OF:



Reg. No.: 20118560
Issue No.: 3052
Case No.: [REDACTED]
Hearing Date: August 24, 2011
Wayne County DHS (55)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Notice of Disqualification request for a hearing. After due notice, a telephone hearing was held on August 24, 2011 from Detroit, Michigan. The Respondent did not appear. Agent [REDACTED], Office of Inspector General, appeared on behalf of the Department.

ISSUE

Whether the Department is entitled to recoup an overissuance of Food Assistance (FAP) benefits.

Whether the Respondent committed an Intentional Program Violation (IPV).

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial 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 over issuance of benefits received by Respondent, as a result of Respondent having committed and IPV. The OIG also requested that Respondent be disqualified from receiving program benefits
2. Respondent was a recipient of Food Assistance (FAP) during the period of 12/1/07 through 5/31/08. The Claimant failed to report earned income for herself

and her daughter who she represented was also living in her household and who was included in her FAP group.

3. Respondent was aware of the responsibility to report all household employment and income to the Department and had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
4. Respondent was employed by [REDACTED] and received earnings during the period of 12/1/07 through 5/31/08. Item 1 page 17. Respondent's daughter [REDACTED] was employed by [REDACTED] and received earnings from 12/4/07 through 4/18/08. Item 1, page 18 and 19.
5. Respondent did not fully report all employment and income to the Department.
6. Respondent was aware of her reporting responsibilities, and reported her self employment income earned from child care and her son's SSI unearned income. Item 4, Item 5, page 31.
7. Respondent failed to report income and earnings for the purpose of receiving benefits to which Respondent was not entitled.
8. The Respondent filed an application for State Emergency Relief on 2/5/08 and did not report the earned income from [REDACTED]. Item 6.
9. As result of Respondent's failure to report the earned income of her FAP group, Respondent received over issuance in the amount of \$2,132 under the FAP program as documented by the FAP budgets presented by the Department at the hearing. Item 8, pages 42 – 53.
10. The Claimant's FAP group consisted of 5 members, and the Monthly Gross Income Limit in 2007 was \$2615. Item 7.
11. The Department has established that the Respondent committed and IPV.
12. This was the Respondents first Intentional Program Violation.
13. A Notice of Disqualification hearing was mailed to the Respondent at the last known address and was not returned by the US Post Office as undeliverable.

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

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Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) 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 Bridges Reference Manual (BRM).

The Department must prevent over issuances by following BAM 105 requirements and by informing the client's of the following:

Applicants and recipients are required by law to give complete and accurate information about their circumstances.

Applicants and recipients are required by law to promptly notify the Department of all changes in circumstances within 10 days.

An Intentional Program Violation (IPV) is suspected when there is clear and convincing evidence that the client has intentionally withheld or misrepresented information for the purposes of establishing, maintaining, increasing or preventing rejection of benefits for eligibility BAM 720 p. 1.

Under BAM 720 the amount of the over issuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. And over issuance is the amount of benefits issue to the client group in excess of what they were eligible to receive. The Department must use the actual income for the over issuance month in determining the over issuance.

The standard disqualification. It is used in all instances except when a court orders a different. The Department policy provides the following disqualification periods to recipients determined to have committed IPV:

- One year for the first IPV
- Two years for the second IPV
- Lifetime for the third IPV, BAM 720, p. 13.

In the present case the Department has established that Respondent was aware of the responsibility to report household income, and had no apparent limitations to fulfilling this requirement. The Respondent failed to report income and earnings, with the intent of receiving benefits to which Respondent was not entitled. As a result of failing to report income, Respondent received an overissuance in the amount of \$2132 and committed an IPV. Under the aforementioned policy, Respondent is to be disqualified from the FAP program for a period of 12 months.

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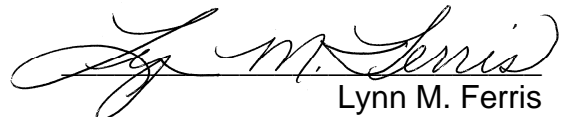
Based upon a thorough review of the documentary evidence, including verification of employment for the Respondent and her daughter, and the FAP budgets presented indicating that the FAP group's gross income exceeded the gross income limit and thus was not entitled or eligible to receive FAP benefits due to excess income the Department has proven the amount of the over issuance and the Intentional Program Violation.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, finds that the Respondent committed and IPV with regards to the FAP program and received over issuance of \$ 2132 in program benefits.

IT IS Ordered:

1. That the Respondent shall be disqualified from the FAP program for a period of 12 months.
2. It is further ordered that the Department initiate collection procedures to recoup for over issuances of FAP benefits in the amount of \$2132, in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 1, 2011

Date Mailed: September 1, 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.

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