

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. On June 13, 2009, the department received Verification of Employment from Workforce strategies showing Claimant was employed from September 24, 2008 through April 18, 2009. Respondent failed to report this income. (Department Exhibits 40-41).
2. Based on a review of Respondent's EBT history, Respondent moved to [REDACTED] in August 2009. Respondent used his FAP benefits exclusively in [REDACTED] from August 15, 2009 through September 3, 2009 and solely in Oklahoma from September 8, 2009 through June 27, 2010. (Department Exhibits 37-39).
3. Respondent received [REDACTED] in FAP benefits during the fraud period of November 2008 through April 2009 and [REDACTED] in FAP benefits from September 2009 through June 2010. If the income had been properly

reported and budgeted by the department, Respondent would only have been eligible to receive [REDACTED] in FAP benefits, resulting in a FAP overissuance in the amount of [REDACTED]. If Respondent had reported he moved to Texas in August 2009, Respondent would not have been eligible to receive the overissuance of [REDACTED] in FAP benefits. (Department Exhibits 44-56).

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).

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 working at Workforce Strategies from September 2008 through April 2009. Respondent failed to timely report this income. The FAP EBT history showed Respondent last resided and used his FAP benefits in Michigan in August 2009, and used the remaining FAP benefits in Texas and Oklahoma from August 2009 through June 2010.

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 [REDACTED] overissuance from September 2008 through June 2010. Consequently, the department's request for 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 working while receiving benefits for the period of time from September 2008 through April 2009 and was no longer living in Michigan beginning August 2009.

Therefore, it is ordered that:

1. Respondent shall be personally disqualified from participation in the FAP program for one year, 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: 10/24/11

Date Mailed: 10/24/11

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]