

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

IN THE MATTER OF:

[REDACTED]

Registration No: 201121373  
Issue No: 3055  
Case No: [REDACTED]  
Hearing Date: October 12, 2011  
Wayne County DHS #57

**Administrative Law Judge:** Corey A. Arendt

**HEARING DECISION**

This matter is before me in accordance with 7 CFR 273.16, MCL 400.9, MCL 400.37, and 1999 AC, R 400.3130, on the Department of Human Services' (the Department's) request for hearing. After due notice, a hearing was held on October 12, 2011, at which Respondent appeared. The hearing was held in accordance with Bridges Administrative Manual (BAM) 720, pp 9-10. The Department was represented by its Office of Inspector General (OIG).

During the hearing, the Department and the Respondent agreed to cross incorporate the record from [REDACTED] (Register Number 2011-21373) with the record from [REDACTED] (Register Number 2011-21369). Both files share the same central facts, circumstances and legal arguments.

**ISSUE**

In dispute was whether Respondent committed an intentional program violation (IPV) involving the Food Assistance Program (FAP, thereby receiving an overissuance of benefits the Department is entitled to recoup.

**FINDINGS OF FACT**

I find as material fact based on the clear and convincing evidence pertaining to the whole record:

1. The Department's OIG filed a request for hearing to establish an over issuance of FAP benefits received as a result of a determination that Respondent committed an IPV.
2. On November 28, 2006, the Respondent signed an assistance application (DHS-1171). On the application, the Respondent indicated he only wanted FAP benefits for his three grand children. Respondent did not list his wife's income on the November 28, 2006 application. (Department's Exhibit 1)
3. By signing this application, Respondent acknowledged that he understood his failure to give timely, truthful, complete, and accurate information about

his circumstances could result in a civil or criminal action, or an administrative claim, against him. (Department's Exhibit 1)

4. On June 17, 2007, the Department received a wage match report for the Respondent's wife. The report indicated the Respondent's wife had total gross earnings of [REDACTED] in 2005, [REDACTED] in 2006 and [REDACTED] in 2007. (Department Exhibit 2)
5. From January 2006 through September 2007, the Respondent received a FAP over issuance of [REDACTED]. (Department Exhibits 3, 5)
6. Respondent was clearly instructed and fully aware, or should have been fully aware, of his responsibility to report all changes in circumstances to the Department within ten days of any change in his circumstances.
7. There was no apparent physical or mental impairment present that limited Respondent's ability to understand and comply with his reporting responsibilities.
8. This was the first determined IPV committed by Respondent.

### **CONCLUSIONS OF LAW**

The FAP (formerly known as the Food Stamp (FS) program) was 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 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 Bridges Reference Manual (BRM).

In the present matter, the Department requested a hearing to establish an overissuance of FAP benefits, claiming that the overissuance was a result of an IPV committed by Respondent.

Here, the OIG presented unequivocal evidence that Respondent did not report the necessary wage information. The failure of the Respondent to notify the department lead to an over issuance of FAP benefits as the Department was unable to properly determine and budget the Respondent's eligibility for FAP benefits.

When a client or group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700, p 1. A suspected IPV is defined as an over issuance 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. [BAM 720, p 1.]

An IPV is suspected by the Department when a client intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing a reduction of, program eligibility or benefits. BAM 720, p 1. In bringing an IPV action, the agency carries the burden of establishing the violation with clear and convincing evidence. BAM 720, p 1.

Based on the credible testimony and other evidence presented, I have concluded the Respondent lacked the specific intent needed to establish an IPV. I find the Respondent was confused by the application and clearly did not intend to receive benefits for himself or his wife as was marked on the application. I can therefore understand the Claimant's rationale as to why he did not feel it was necessary to include the earnings of his wife on the application. Regardless, the Respondent received more benefits than he was entitled to receive. Therefore, Respondent is responsible for repayment of the OI.

### **DECISION AND ORDER**

Based on the above findings of fact and conclusions of law, I find Respondent **did not** commit an intentional program violation but did receive an over issuance of FAP benefits in the amount of [REDACTED].

It is therefore ORDERED:

1. The Department is entitled to recoup the remaining FAP over issuance of [REDACTED] from the Respondent and to initiate collection procedures in accordance with Department policy.

/s/

Corey A. Arendt  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: October 13, 2011

Date Mailed: October 14, 2011

2011-21373/CAA

NOTICE: Respondent may appeal this decision and order to the circuit court for the county in which he / she resides within 30 days of receipt of this decision and order.

CAA/cr

cc:

