

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

IN THE MATTER OF:



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 FAP EBT history, the department discovered that Respondent had moved out of Michigan and not reported his move to the department. The EBT history showed that as of June 5, 2009, Respondent used his FAP benefits exclusively in [REDACTED] until July 10, 2009, then solely in Ohio beginning July 11, 2009 to August 18, 2010. (Department Exhibits 51-54).
2. The department was alerted via an unemployment compensation benefit (UCB) match that Respondent was receiving UCB from October 2008 through August 17, 2010, which he did not report to the department. (Department Exhibits 55-59).
3. Respondent received [REDACTED] in FAP benefits during the fraud period of December 2008 through May 2009. If the unemployment 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]. (Department Exhibits 60-72).

4. Respondent received \$ [REDACTED] in FAP benefits during the fraud period of June 2009 through August 2010. If the Respondent had properly reported that he had moved out of Michigan to the department, Respondent would not have been eligible to receive FAP benefits, resulting in a FAP overissuance of [REDACTED]. (Department Exhibits 60-72).

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, Respondent was living out of state and using his FAP benefits solely in Indiana and Ohio from June 2009 through August 2010. Respondent failed to timely report this move, resulting in a [REDACTED] FAP overissuance for the period of June 2009 through August 2010. In addition, the department discovered Respondent was receiving unemployment compensation benefits from December 2008 through May 2009 which he failed to report resulting in a [REDACTED] FAP overissuance.

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 December 2008 through August 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 receiving unemployment compensation benefits and had moved out of state while receiving benefits for the period of time from December 2008 through August 2010.

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]