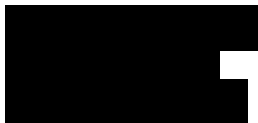


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-25106
Issue No: 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 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 over issuance of benefits received by Respondent as a result of Respondent having committed an Intentional Program Violation (IPV).
2. Respondent completed an application for public assistance on December 6, 2007 (DHS 1171), acknowledging her responsibility to report any changes in her income or resources to the department within ten days of the change. (Department Exhibit 6-13).
3. On said application, Respondent requested MA for her minor children, [REDACTED]. (Department Exhibit 6-13).

4. Respondent also submitted an application for MICHild and Healthy Kids on October 30, 2008 and stated that neither [REDACTED] had health insurance. (Department Exhibit 15-18).
5. Respondent's minor children, [REDACTED], were covered under their father, [REDACTED] health insurance from March 18, 2008 to August 31, 2009. (Department Exhibit 14).
6. As a result of the Respondent's failure to report the insurance coverage for her minor children, she received an over issuance of MA benefits for the period of April 1, 2008 to August 31, 2009 in the amount of [REDACTED] (Department Exhibit 20-34).
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 did not submit to the department good cause for her failure to report the children's health insurance coverage.
10. Respondent had not committed any previous intentional program violations. (Department Hearing Request).

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In this case, the department has requested a disqualification hearing to establish an over issuance 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 over issuance. BAM 700. A suspected intentional program violation means 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.

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 over issuances 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 over issuances 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 over issuance amount is \$1000 or more, or
 - the total over issuance 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.

In order to be eligible for MA, a client must cooperate with the department and identify any and all third party resources. Failure, without good cause, to identify a third party resource results in disqualification. BEM 257.

In the case at hand, the Respondent admitted to the OIG that she was aware that her children were covered under their father's insurance but that she did not report this to the department. Respondent stated that she did not report the coverage because the

children's father refused to provide her with the insurance information. Respondent did not file a claim for good cause for her failure to report the insurance coverage with the department. The department, therefore, could not make a determination as to whether or not Respondent had good cause for her failure to report.

Because Respondent failed to report to the department her children were covered under their father's health insurance, the Respondent committed an intentional program violation resulting in an over issuance of MA benefits for the period of April 1, 2008 through August 31, 2009 in the amount of [REDACTED]. 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 her children were covered by their father's health insurance.

Therefore, it is HEREBY ORDERED that:

1. The Respondent shall reimburse the department for MA benefits ineligibly received as a result of her intentional program violation in the amount of [REDACTED]

/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

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:

