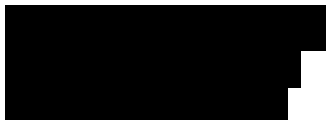


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-25854
Issue No: 6052/3055
Case No: [REDACTED]
Hearing Date:
November 8, 2011
Wayne 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 November 8, 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 Child Development and Care Program (CDC) and 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. The department's Office of Inspector General (OIG) filed a hearing request to establish an overissuance of benefits received by Respondent as a result of Respondent having committed Intentional Program Violations (IPV).
2. Respondent signed Assistance Application (DHS-1171) on April 6, 2005, November 5, 2005, and July 18, 2006, acknowledging that she understood her failure to give timely, truthful, complete and accurate information about her circumstances could result in a civil or criminal action or an

- administrative claim against her. (Department Exhibits 9-16, 21-28, 29-36).
3. On the April 6, 2005 Assistance Application, Respondent listed herself as employed at Insight working 40 hours a week at \$7.00 an hour. (Department Exhibit 12).
 4. On April 25, 2005, Respondent submitted a Child Development and Care (CDC) application, for child care only to participate in a required activity for her FIA Protective Services/Prevention case. (Department Exhibits 17-19).
 5. On November 5, 2005, Respondent submitted an application for FAP listing her employer as Beneficial Employment Services at [REDACTED] an hour with a monthly take home amount of [REDACTED]. (Department Exhibits 21-28).
 6. On July 18, 2006, Respondent submitted an application for FAP and listed her employer as Network Cleaning and her salary as [REDACTED] a month. (Department Exhibits 29-36).
 7. On July 12, 2007, the department ran an Employee Wage History on Respondent which showed that in 2006, she earned [REDACTED] from Network Cleaning. The history also showed Respondent earned [REDACTED] from Beneficial Employments Services in 2005. (Department Exhibit 37).
 8. On August 1, 2007, the department received employment verification from Beneficial Employment Services showing Respondent was employed from September 19, 2005 until she quit on December 7, 2005, during which time she earned [REDACTED]. (Department Exhibits 38-40).
 9. Respondent received [REDACTED] in CDC benefits from July 10, 2005 through September 17, 2005, and [REDACTED] in CDC benefits from February 5, 2006 through September 16, 2006, for a total of [REDACTED]. If Respondent had properly reported her employment, she would not have been eligible to receive any CDC benefits. (Department Exhibits 54-57).
 10. Respondent also received [REDACTED] in FAP benefits from July 2005 through August 2005, [REDACTED] in FAP benefits from February 2006 through April 2006, and [REDACTED] in FAP benefits from August 2006 through September 2006, for a total of [REDACTED]. If Respondent had properly reported her employment, she would not have been eligible to receive any FAP benefits. (Department Exhibits 44, 47-53).
 11. Respondent was clearly instructed and fully aware of the responsibility to report all employment and income to the department.

12. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.
13. Respondent had not committed any previous intentional program violations of the CDC or FAP program. (Department Hearing Request).

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, Rules 400.5001-5015. 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. 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 overissuance. BAM 700. A suspected intentional program violation means an overissuance 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 overissuances 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 overissuances 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 overissuance amount is \$1000 or more, or
 - the total overissuance 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.

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 FAP program violation.

In this case, the department has established that Respondent was aware of the responsibility to report all income and employment to the department. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within ten days. BAM 105. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities.

Respondent completed assistance applications on April 6, 2005, April 25, 2005, November 5, 2005, and July 18, 2006. Respondent's signature on the Assistance Applications from June 14, 2006, certifies that she was aware that fraudulent participation in CDC and FAP could result in criminal or civil or administrative claims.

On these applications, Respondent indicated that she was employed at Beneficial Employment Services and Network Cleaning. However, the verification of employment

received from Beneficial Employment Services showed Respondent was employed only from September 19, 2005 through December 7, 2005. Respondent failed to notify the department when she quit on December 7, 2005. In addition, although Respondent reported receiving take home pay of [REDACTED] a month from Network Cleaning, she only received a total of [REDACTED] in 2006, according to the Michigan Department of Treasury. If Respondent had reported to the department that she was no longer employed, Respondent would not have been eligible for CDC or FAP benefits from July 2005 through September 2005, and February 2006 through September 2006.

Therefore, this Administrative Law Judge concludes that the department has shown, by clear and convincing evidence, that Respondent committed a first intentional violation of the CDC and FAP program, resulting in a [REDACTED] CDC overissuance and a [REDACTED] FAP overissuance from July 2005 through September 2005, and February 2006 through September 2006. Consequently, the department's request for full restitution for the CDC and FAP programs 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 CDC and FAP Intentional Program Violations by failing to report that she was no longer working while receiving benefits for the period of time from July 2005 through September 2005, and February 2006 through September 2006.

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] CDC overissuance and the [REDACTED] FAP overissuance for a total of [REDACTED], caused by her intentional program violations.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 11/10/11

Date Mailed: 11/10/11

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

