

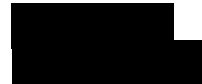
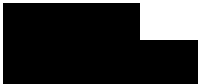
STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-3257

Issue No: 1052



Delta 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 May 24, 2011, at which Respondent did not appear.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) of the Family Independence Program (FIP) and Medical Assistance (MA) program 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 an Intentional Program Violation (IPV); the OIG also requested that Respondent be disqualified from receiving program benefits.
2. Respondent signed Assistance Application (DHS-1171) on March 30, 2009, 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 11-26).

3. On February 10, 2010, the department received a PARIS cross border match report that showed Respondent was living in Wisconsin and had been receiving Medicaid in Michigan and Wisconsin for at least the last quarter. (Department Exhibits 1-2, 39, 42-45).
4. Respondent received [REDACTED] in FIP benefits during the alleged fraud period of November 2009 through February, 2010. If Respondent had reported she was also receiving benefits in Wisconsin, Respondent would only have been eligible to receive [REDACTED] in FIP benefits. Respondent also received [REDACTED] in Medicaid benefits from December 2009 through February, 2010. If Respondent had reported she was also receiving benefits in Wisconsin, Respondent would not have been eligible for Medicaid. (Department Exhibits 34-36, 48-52, 54-75).
5. Respondent failed to report her concurrent receipt of benefits from Wisconsin in a timely manner, resulting in a FIP overissuance for the months of November 2009 through February, 2010, in the amount of [REDACTED] and a Medicaid overissuance of [REDACTED] for the months of December 2009 through February, 2010. (Department Exhibits 34-36, 48-52, 54-75).
6. Respondent was clearly instructed and fully aware of the responsibility to report all changes affecting benefits to the department.
7. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the reporting responsibilities.
8. Respondent had not committed any previous intentional program violations of the FIP and Medicaid programs in Michigan. (Department Hearing Request).

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (BRM).

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. 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. These are Respondent's first intentional FIP and Medicaid program violations in Michigan. As a result of the FIP IPV, the department properly requested that Respondent be disqualified from participation in the FIP program for ten years.

On February 10, 2010, the department received a PARIS match that Respondent had been living in Wisconsin and receiving concurrent FIP and Medicaid benefits from [REDACTED]. The Administrative Law Judge finds the department has established by clear and convincing evidence that Respondent intentionally failed to report that she moved to Wisconsin and was receiving FIP and Medicaid benefits from Michigan and Wisconsin. Respondent's signature on the Assistance Application dated March 30, 2009, certifies that she was aware that fraudulent participation in FIP and Medicaid could result in criminal or civil or administrative claims. Because of Respondent's failure to report that she was living in Wisconsin and receiving concurrent benefits, she received a FIP overissuance of [REDACTED] and a Medicaid overissuance of [REDACTED] that the department is entitled to recoup.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides the respondent committed an Intentional Program Violation with a concurrent receipt of FIP program benefits for the period of time from November 2009 through February, 2010 and a concurrent receipt of Medicaid benefits from December 2009 through February, 2010.

Therefore, it is ORDERED that:

- (1) Respondent shall be personally disqualified from participation in the FIP program for ten years, 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] FIP overissuance and [REDACTED] Medicaid 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: 5/26/11

Date Mailed: 5/26/11

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]