

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

IN THE MATTER OF:



Registration No: 201139628
Issue No: 3055
Case No: [REDACTED]
Hearing Date: November 8, 2011
Genesee County DHS #6

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 November 8, 2011, at which Respondent did not appear. The hearing was held in the absence of the Respondent in accordance with Bridges Administrative Manual (BAM) 720, pp 9-10. The Department was represented by its Office of Inspector General (OIG).

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

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

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. The agency further requested that Respondent be disqualified from receiving further program benefits for a period of ten years.
2. On August 12, 2010, the Respondent signed an assistance application (DHS-1171). (Department's Exhibit 1).
3. Respondent acknowledged 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. From October 2010 through May 2011, the Respondent received Michigan FAP benefits in the amount of [REDACTED]. (Department's Exhibit 3).
5. From July 2009 through November 2010, the Respondent received FAP benefits from Indiana. (Department's Exhibit 2).
6. At no point in time between October 2010 and May 2011 did the Claimant notify the Department about the receipt of the FAP benefits from Indiana.
7. From October 2010 through May 31, 2011, Respondent used his Michigan Electronic Benefits Transfer (EBT) card exclusively in the State of Indiana. (Department Exhibit 4).
8. From October 2010 through May 2011, the Respondent received an over issuance of FAP benefits in the amount of [REDACTED]. (Department's Exhibit 3).
9. There was no apparent physical or mental impairment present that limited Respondent's ability to understand and comply with his reporting responsibilities.
10. 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.

To be eligible for FAP benefits, a person must be a Michigan resident. For FAP purposes, a person is considered to be a Michigan resident if he/she is living in the State, except for vacationing, even if he/she has no intent to remain in the State permanently or indefinitely. BEM 220, p 1. Generally, a client is responsible for reporting any change in circumstances, including a change in residency, that may affect eligibility or benefit level within ten days of the change. BEM 105, p 7.

Concurrent receipt of benefits means assistance received from multiple programs to cover a person's needs for the same time period. BEM 222, p 1. A person cannot

receive FAP in more than one State for any month. BEM 222, p 2. Generally, a client is responsible for reporting any change in circumstances that may affect eligibility or benefit level within ten days of the change. BEM 105, p 7. For example, moving from one State to another, or informing the agency that benefits are also being concurrently received from another State.

Here the OIG provided unequivocal evidence that Respondent received concurrent benefits from the State of Indiana and the State of Michigan from October 2010 through November 2010. Furthermore, the OIG established that Respondent became a resident of Indiana as early as October 2010, when he began using his EBT card exclusively in Indiana. On that date, the Respondent was no longer eligible to receive FAP benefits. BEM 220, p 1.

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.

Further, IPV's involving the FAP result in a ten-year disqualification for concurrent receipt of benefits (i.e., receipt of benefits in more than one State at the same time). BAM 720, p 13.

Based on the credible testimony and other evidence presented, I have concluded the OIG established, under the clear and convincing standard, that Respondent committed an IPV in this matter. As at no time did the Respondent inform the Department of either his move to Indiana or his receipt of concurrent benefits as he knew he was required to do.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, I find Respondent committed an intentional program violation.

It is therefore ORDERED:

1. Respondent shall reimburse the Department for the FAP benefits ineligibly received as a result of her IPV in the amount of [REDACTED]
2. Respondent is personally disqualified from participation in the FAP for ten years – the remainder of the group, if applicable, may continue to participate in the program to the extent eligible. The disqualification period will begin to run IMMEDIATELY as of the date of this order;

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

Date Signed: November 8, 2011

Date Mailed: November 9, 2011

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:

[REDACTED]