

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

IN THE MATTER OF:

[REDACTED]

Registration No: 201143093  
Issue No: 3055  
Case No: [REDACTED]  
Hearing Date: October 20, 2011  
Genesee County DHS

**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 October 20, 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.
2. On October 31, 2008, October 16, 2009 and February 5, 2010, the Respondent signed assistance applications (DHS-1171). The assistance applications each indicated the Respondent could only use FAP benefits to buy food (or seeds and plants to grow her own food) for her household. (Department's Exhibit 1, 2, 3)
3. Between July 10, 2009 and March 10, 2010, the Respondent's Michigan Electronic Benefits Transfer (EBT) card was used at Liquor King. During

this time period, 11 purchases were for over [REDACTED]; including two purchases for [REDACTED] and three purchases for [REDACTED]. (Department Exhibit 7)

3. On May 4, 2010, the United States Department of Agriculture (USDA) permanently disqualified the Liquor King from the Supplemental Nutrition Assistance Program (SNAP) due to FAP trafficking. Around this time, the USDA issued an Alert Case Analysis and concluded any transaction at Liquor King over [REDACTED] was suspicious due to the limited food inventory and the customers' access to and use of other supermarkets. (Department Exhibit 4)
4. There was no apparent physical or mental impairment present that limited Respondent's ability to understand and comply with her reporting responsibilities.

### **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.

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.

Based on the evidence and testimony presented, I cannot possibly find the Respondent participated in FAP trafficking. The arguments offered by the Department are highly speculative and there is nothing that clearly indicates the Respondent was directly involved in the trading or selling of FAP benefits. The Department relies upon a finding by the USDA permanently disqualifying Liquor King for FAP trafficking and further relies on a USDA analysis that concludes each transaction over \$30 is suspicious. Neither of these arguments even when combined clearly shows the Claimant trafficked benefits.

Based on my findings, I have concluded the OIG did not establish, under the clear and convincing standard, that Respondent committed an IPV in this matter.

**DECISION AND ORDER**

Based on the above findings of fact and conclusions of law, I find Respondent did not commit an IPV.

The Department is therefore not entitled to recoup FAP benefits from the Respondent. The Department shall not initiate collection procedures. The Department shall not sanction the Respondent.

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

Date Signed: October 26, 2011

Date Mailed: October 26, 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:

