

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

IN THE MATTER OF:

[REDACTED] RD
[REDACTED]

Registration No: 201144172
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 is whether Respondent committed an intentional program violation (IPV) involving the Food Assistance Program (FAP) and Child Development and Care (CDC) benefits, 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 a program disqualification and an over issuance of FAP and CDC benefits received as a result of a determination that Respondent committed an IPV.
2. As of October 1, 2006, the Respondent's last notification to the Department indicated her children were still living with her.
3. In October 2006, the Respondent sent her children to Oklahoma to live with their father. The Respondent failed to inform the Department of the change. The Respondent continued to receive FAP and CDC benefits for her children while they lived in Oklahoma with their father.

4. Sometime in November of 2006, the Respondent gave [REDACTED] temporary custody of her children. (Department Exhibit 7)
5. From January 26, 2007 through October 26, 2007, the Respondent filled out several DHS-1514's. Each DHS 1514 indicated the Respondent still lived with her children. (Department Exhibit 1-5)
6. On October 28, 2007, the Respondent told the Department her children were no longer living with her. (Department Exhibit 6)
7. In November 2007, the Respondent moved to Oklahoma. From November 13, 2008 through February 28, 2009, the Respondent used her EBT card exclusively in Oklahoma. (Department Exhibit 10)
8. From October 1, 2006 through December 31, 2007 the Respondent received from the Department an OI of [REDACTED] in CDC benefits. (Department Exhibit 11)
9. From December 1, 2006 through February 28, 2009 the Respondent received from the Department an OI of [REDACTED] in FAP benefits. (Department Exhibit 12, 13, 14)
10. There was no apparent physical or mental impairment present that limited Respondent's ability to understand and comply with her reporting responsibilities.
11. 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).

The CDC 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 provides services to adults and children pursuant to MCL 400.14(1) and 1997 AACRS R 400.5001-5015.

In the present matter, the Department requested a hearing to establish an overissuance of FAP and CDC 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.

The goal of the Child Development and Care (CDC) program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified Michigan families.

Here the OIG provided unequivocal evidence that Respondent became a resident of Oklahoma as early as November 2008, and at other times was claiming additional children in her group size for both FAP and CDC benefits when in fact all of the children were living in another state with someone else.

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.

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 her move or the reduction in her group size.

The Department did not provide any evidence to establish the Respondent received a dual receipt of benefits. Therefore I cannot find the Respondent disqualified ten years for FAP.

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 shall reimburse the Department for the CDC benefits ineligibly received as a result of her IPV in the amount of [REDACTED].

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

Date Signed: October 24, 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:

[REDACTED]