

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201224624
Issue No.: 3055
Case No.: [REDACTED]
Hearing Date: February 28, 2012
County: Kent County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

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 hearing. After due notice, a telephone hearing was held on February 28, 2012 from Lansing, Michigan. The Department was represented by [REDACTED] of the Office of Inspector General (OIG). Participants on behalf of Respondent included [REDACTED].

ISSUES

1. Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) benefits the Department is entitled to recoup?
2. Did Respondent commit an Intentional Program Violation (IPV)?
3. Should Respondent be disqualified from receiving Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department's OIG filed a hearing request on December 5, 2011 to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. The OIG has requested the Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of FAP benefits during the period of May 1, 2007 through June 30, 2008.

4. Respondent was aware of the responsibility to report all changes within 10 days.
5. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. The Department's OIG indicates that the time period they are considering the fraud period is May 1, 2007 through June 30, 2008.
7. During the alleged fraud period, Respondent was issued [REDACTED] in FAP benefits from the State of Michigan.
8. Respondent was entitled to [REDACTED] in FAP during this time period.
9. Respondent did receive an OI in the amount of [REDACTED] under the FAP program.
10. The Department has established the Respondent committed an IPV.
11. This was Respondent's second IPV.
12. A notice of disqualification hearing was mailed to Respondent at the last known address and was not returned by the US Post Office as undeliverable.
13. Between May 1, 2007 and June 30, 2008, the Claimant and her Husband ([REDACTED]) received proceeds from online music sales and singing engagements.
14. Between May 1, 2007 and June 30, 2008, the Claimant and her Husband controlled and had access to multiple checking and savings accounts.
15. Between May 1, 2007 and June 30, 2008, the Claimant at no point in time, reported to the Department either the online sales/singing engagement proceeds or the other bank accounts (Claimant reported only one account - [REDACTED]).
16. Between May 1, 2007 and June 30, 2008, the Claimant and her Husband made numerous cash and check deposits into several [REDACTED] bank accounts.
17. Between May 1, 2007 and June 30, 2008, the Claimant had her RSDI checks direct deposited into one of the unreported [REDACTED] bank accounts.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The FAP [formerly known as the Food Stamp (FS) program] is 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

(formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700.

Suspected IPV means an OI exists for which all three of the following conditions exist:

- 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.

IPV is suspected when there is clear and convincing evidence that the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. BAM 720.

The Department's OIG requests IPV hearings for cases when:

- benefit over issuances 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

A court or hearing decision that finds a client committed an IPV 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 who commit an IPV 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.

Based on the testimony and the exhibits presented during the hearing, I have concluded the OIG established, under the clear and convincing standard, the Respondent committed an IPV in this matter. In this case, the Claimant argued, the accounts were those of the church, and further argued her as well as her husband were merely fiduciaries of those accounts. However neither of the bank statements provided indicate

this to be true. The bank statements do not mention or indicate the Claimant or her Husband's involvement with an alleged church. Moreover there was a clear commingling of the accounts of which there was no explanation. If everything the Claimant stated were true, the Claimant had her RSDI income going into the account of the church, the same account from which she indicated she did not use for personal expenses. In addition, the account of her Husband (██████████), deposited money into her own account on several occasions. Again there was no explanation as to why.

Besides, the Claimant was unable to provide any documentation as to the actual establishment of the alleged church. There were no financial records or business records to add any legitimacy to the Claimant's claim.

In addition, the unreported bank accounts revealed several large cash and check deposits covering the time period in question. And on several occasions, there were teller transfers from another checking account (██████████) into the account of both the Claimant and her Husband. The Claimant was unable to provide any explanation or information to explain these findings.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, concludes that:

1. Respondent did commit an IPV
2. Respondent did receive an over issuance of program benefits in the amount of ██████████ from the FAP program.

The Department is ORDERED to initiate recoupment procedures for the amount of ██████████ in accordance with Department policy.

It is FURTHER ORDERED that Respondent be disqualified from FAP for a period of 24 months.

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

Date Signed: March 2, 2012

Date Mailed: March 5, 2012

201224624/CAA

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.

CAA/las

cc:

