

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201250447
Issue No: 1052, 3055
Case No: [REDACTED]
Hearing Date: October 23, 2012
Muskegon 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 October 23, 2012, from Lansing, Michigan. The Department was represented by [REDACTED] of the Office of Inspector General (OIG).

Respondent did not appear at the hearing and it was held in Respondent's absence pursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3187(5).

ISSUES

1. Did Respondent receive an overissuance (OI) of Family Independence Program (FIP) Food Assistance Program (FAP) Medical Assistance (MA) State Disability Assistance (SDA) Child Development and Care (CDC) benefits that the Department is entitled to recoup?
2. Did Respondent commit an Intentional Program Violation (IPV)?
3. Should Respondent be disqualified from receiving Family Independence Program (FIP) Food Assistance Program (FAP) State Disability Assistance (SDA) Child Development and Care (CDC)?

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 May 9, 2012 to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.

2. The OIG has has not requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of FAP benefits during the period of December 1, 2010 through July 31, 2011.
4. Respondent was a recipient of MA benefits during the period of December 1, 2010 through July 31, 2011.
5. Respondent was was not aware of the responsibility to report all changes within 10 days.
6. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
7. The Department's OIG indicates the time period they are considering the fraud period for the FAP and MA programs is December 1, 2010 through July 31, 2011.
8. During the alleged fraud period, Respondent was sued [REDACTED] in FAP benefits and [REDACTED] in MA benefits from the State of Michigan.
9. Respondent was entitled to [REDACTED] in FIP FAP SDA MA CDC during this time period.
10. From December 2009 through July 2011 the Respondent received concurrent benefits from the State of Florida and Michigan.
11. From October 10, 2010 through August 8, 2011 the Respondent used her Michigan EBT card exclusively in the State of Florida.
12. Respondent did receive an OI in the amount of [REDACTED] under the FAP and [REDACTED] under MA.
13. The Department has has not established that Respondent committed an IPV.
14. This was Respondent's first second third IPV.
15. A notice of disqualification hearing was mailed to Respondent at the last known address and was was not returned by the US Post Office as undeliverable.

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 (F S) 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.

The MA program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

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 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 \$1,000.00 or more, or
- the total overissuance amount is less than \$1,000.00, 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.

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 both the State of Florida and Michigan and became a resident of Florida as early as October 10, 2010 when the Respondent began using her EBT card exclusively in Florida. On that date, the Respondent was no longer eligible to receive FAP or MA benefits. BEM 220, 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 and also received concurrent benefits from the State of Florida and Michigan. At no time did the Respondent inform the Department of her move to the State of Florida as she knew she was required to do in order to receive additional benefits.

DECISION AND ORDER

I have concluded, based upon the above Findings of Fact and Conclusions of Law:

1. Respondent did did not commit an IPV
2. Respondent did receive an OI of program benefits in the amount of [REDACTED] for the FAP and [REDACTED] for the MA program.

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

It is FURTHER ORDERED that Respondent be disqualified from FAP for a period of 10 years.

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

Date Signed: October 26, 2012

Date Mailed: October 26, 2012

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

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