

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

IN THE MATTER OF:



Reg. No.: 201271644
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: September 19, 2012
County: Wayne DHS (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on September 19, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Recoupment Specialist, and [REDACTED], Regulation Agent.

ISSUE

The issue is whether DHS properly applied an Intentional Program Violation (IPV) to Claimant's ongoing Food Assistance Program (FAP) benefit eligibility.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. Claimant was part of a FAP benefit group of one person.
3. On 3/7/12, Claimant signed a Disqualification Consent Agreement (Exhibit 1) agreeing to a one year disqualification of FAP benefits.
4. On 7/23/12, DHS terminated Claimant's ongoing FAP benefit eligibility due to a lack of any eligible FAP benefit group members.
5. On 8/7/12, Claimant requested a hearing to dispute the FAP benefit termination.

CONCLUSIONS OF LAW

The Food Assistance Program (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 Mich Admin Code, R 400.3001 through R 400.3015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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. BAM 720 at 1.

The client is determined to have committed an IPV by:

- A court decision.
- An administrative hearing decision.
- The client signing a DHS-826, Request for Waiver of Disqualification Hearing or DHS-830, Disqualification Consent Agreement or other recoupment and disqualification agreement forms.

The present case concerns a termination of FAP benefits based on an alleged IPV by Claimant. It was not disputed that Claimant signed a DHS-830 Disqualification Consent Agreement and a DHS-4350 Intentional Program Violation Repayment Agreement. The forms verified that Claimant consented to a repayment of \$1568 in over-issued FAP benefits and a one year FAP benefit disqualification penalty.

Claimant contended that she signed the statements under duress and that the duress should invalidate her signature. Claimant specifically contended that DHS withheld employment information for her son until she signed the statements. The testifying regulation agent denied Claimant's accusations. Even accepting Claimant's testimony as true, the testimony does not amount to duress. Claimant failed to provide any explanation why her alleged need for son's employment information would result in signing forms that conceded disqualification of benefit eligibility and a substantial recoupment. Based on the presented evidence, it is found that Claimant did not sign the statements under duress.

Claimant also stated that she did not realize what she was signing and that she had not read the documents before signing them. There is a legal basis for revoking a signature for reasons such as fraud or duress. Revoking a signature based on ignorance and/or a

failure to read to documents has legal precedent but typically only in exceptional circumstances. Exceptional circumstances could include Claimant's illiteracy or unconscionable or baseless consequences. The present case presented no exceptional circumstances to justify a legal revocation of Claimant's signature. It is found that Claimant voluntarily agreed to a one year FAP benefit disqualification and \$1568 FAP benefit repayment.

It was not disputed that Claimant was the only member in her FAP benefit group. The one year disqualification imposed by DHS left Claimant with no eligible FAP benefit group members. Thus, DHS properly terminated Claimant's FAP benefit eligibility when the disqualification was imposed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefit eligibility effective 8/2012 based on imposition of Claimant's conceded IPV disqualification. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 25, 2012

Date Mailed: September 25, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

201271644/CG

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

