

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201257545
Issue No: 3055
Case No: [REDACTED]
Hearing Date: July 25, 2012
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

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 disqualification hearing. After due notice, a telephone hearing was held on July 26, 2012, at which Respondent did not appear. This matter having been initiated by the department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) of the Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing evidence on the whole record, finds as material fact:

1. The department's Office of Inspector General (OIG) filed a hearing request to establish an overissuance of benefits received by Respondent as a result of Respondent having committed an Intentional Program Violation (IPV); the OIG also requested that Respondent be disqualified from receiving program benefits.
2. Respondent was a recipient of FAP benefits for the time period of December 1, 2010 through September 30, 2011. (Department Exhibit 5).
3. During this time period, the Respondent was employed at both [REDACTED] and [REDACTED]. (Department Exhibits 3 and 4).
4. The department contends that the claimant did not report his employment with [REDACTED] [REDACTED] [REDACTED] and his resultant income. (Department Hearing Summary).

5. The department therefore contends that the Respondent committed an intentional program violation of the FAP program that resulted in the claimant receiving an overissuance of FAP benefits in the amount of [REDACTED] for the time period of December 1, 2010 through September 30, 2011.
6. Respondent had not committed any previous intentional program violations.
7. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.

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 of Human Services (DHS or 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 Program Reference Manual (PRM).

In this case, the department has requested a disqualification hearing to establish an overissuance of benefits as a result of an IPV and the department has asked that the respondent be disqualified from receiving benefits. The department's manuals provide the following relevant policy statements and instructions for department caseworkers.

When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700. A suspected intentional program violation means an overissuance 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.

The department suspects an intentional program violation when the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility. There

must be clear and convincing evidence that the client acted intentionally for this purpose. BAM 720.

The department's Office of Inspector General processes intentional program hearings for overissuances referred to them for investigation. The Office of Inspector General represents the department during the hearing process. The Office of Inspector General requests intentional program 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 \$1000 or more, or
 - the total overissuance amount is less than \$1000, and
 - the group has a previous intentional program violation, or
 - the alleged IPV involves FAP trafficking, or
 - the alleged fraud involves concurrent receipt of assistance,
 - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an intentional program violation 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 that commit an intentional program violation 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. This is the respondent's first intentional program violation.

In this case, the department contends that the Respondent failed to notify the department that he was employed at [REDACTED] and that he was receiving income as a result of that employment. However, the department has not shown any documentation to show that the claimant did not indicate that he was employed with [REDACTED]. The department did not provide a DHS 1171 assistance application or a complete DHS 1010 redetermination that shows who the Respondent listed as employers. Additionally, the department did not provide a signed DHS 1171 which would have shown that the Respondent acknowledged his responsibility to report changes in his income to the department within ten days of the date of change. The department also did not provide documentation to show how it learned that the Respondent was employed through [REDACTED]. Furthermore, the department did not provide any budgets to show how the alleged overissuance was

calculated; how the amount issued was calculated versus what the proper amount should have been. Based on the evidence presented at the hearing, the Administrative Law Judge determines that the department has not provided clear and convincing evidence to show that the Respondent committed an intentional program violation of the FAP program. Additionally, the department has not provided evidence sufficient to show that the Respondent received an overissuance of FAP benefits or what the amount of that over issuance is.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find clear and convincing evidence that the Respondent committed an intentional program violation of the FAP program.

Accordingly, this matter is hereby **DISMISSED** WITHOUT PREJUDICE. The department shall be allowed to re-file this matter if sufficient evidence can be shown to establish an overissuance and an IPV.

/s/ _____
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 22, 2012

Date Mailed: August 23, 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.

CSS/cr

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