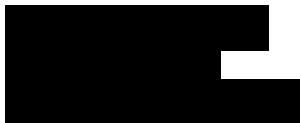


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201270605
Issue No: 3055
Case No: [REDACTED]
Hearing Date: October 9, 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 October 9, 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 completed applications for public assistance on December 19, 2008 and August 9, 2011 (DHS 1171), acknowledging her responsibility to report any changes in her income, resources, or living arrangements to the department within ten days of the change. (Department Exhibits 13-50).

3. From October 22, 2009 through December 10, 2009, and from January 10, 2010 through May 11, 2010, the Respondent used her FAP benefits exclusively in the state of Texas. (Department Exhibits 51-52).
4. From August 22, 2010 through November 13, 2010 and from December 11, 2010 through February 16, 2011, the Respondent used her FAP benefits exclusively in the state of Texas. (Department Exhibits 51-52).
5. From June 5, 2011 through June 18, 2011 and from August 1, 2011 through November 23, 2011, the Respondent used her FAP benefits exclusively in the state of Texas. (Department Exhibits 51-52).
6. The Respondent did not inform the department that she had left the state of Michigan for more than 30 days at any time.
7. Because the Respondent left the state of Michigan for more than 30 days, the department asserts that she was no longer eligible for FAP benefits and as a result of her failure to inform the department, committed an intentional program violation of the FAP program which resulted in her receiving an overissuance of FAP benefits in the amount of [REDACTED] for the time periods of January 1, 2010 through May 31, 2010, August 1, 2010 through October 31, 2010, December 1, 2010 through February 28, 2011, June 1, 2011 through June 30, 2011, and August 1, 2011 through November 30, 2011. (Department Exhibit 2).
7. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.
8. Respondent was clearly instructed and fully aware of the responsibility to report true and accurate information to the department.
9. Respondent has not previously committed any intentional program violations.

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 committed an intentional program violation by failing to inform the department that she had left the state of Michigan for more than 30 consecutive days. The department produced an EBT purchase history that shows the history of the purchases made in other states. This Administrative Law Judge finds that the evidence produced by the department shows that the Respondent was residing out of the state of Michigan for more than 30 days and therefore would not have been eligible for FAP benefits issued by the state of Michigan. However, for one of the time periods the department is claiming fraud for; June 1, 2011 through June 30, 2011, the evidence does not show that the Respondent was out of the state of Michigan for more than 30 days during this period. Accordingly, this Administrative Law Judge finds that the overissuance amount must be reduced by \$ [REDACTED] for the time period of June 1, 2011 through June 30, 2011. Therefore, this Administrative Law Judge finds that the department has shown, by clear and convincing evidence, that the Respondent committed an intentional program violation of the FAP program which resulted in the Respondent receiving an overissuance of FAP benefits in the amount of \$ [REDACTED] for the time periods of January 1, 2010 through May 31, 2010, August 1, 2010 through October 31, 2010, December 1, 2010 through February 28, 2011, and August 1, 2011 through November 30, 2011. Because this is the Respondent's first intentional program violation, the one year sanction is appropriate.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds clear and convincing evidence that the Respondent committed an Intentional Program Violation by failing to notify the department that she was residing outside the state of Michigan for more than 30 consecutive days.

Therefore, it is HEREBY ORDERED that:

1. The Respondent shall reimburse the department for FAP benefits ineligibly received as a result of her intentional program violation in the amount of \$ [REDACTED]
2. The Respondent is personally ineligible to participate in the FAP program for the period of one year. The disqualification period shall be applied immediately.

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

Date Signed: October 29, 2012

Date Mailed: October 30, 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

cc:

[REDACTED]