

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

IN THE MATTER OF:



Registration No: 2013-20494
Issue No: 1052, 3055
Case No: [REDACTED]
Hearing Date: March 13, 2013
Jackson County DHS

Administrative Law Judge: Corey A. Arendt

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 hearing. After due notice, a telephone hearing was held on March 13, 2013, from Lansing, Michigan. The Department was represented by [REDACTED] [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).

ISSUE

1. Did Respondent receive an over issuance (OI) of Family Independence Program (FIP), Food Assistance Program (FAP), 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

Based on the clear and convincing evidence pertaining to the whole record, I find as material fact:

1. The Department's OIG filed a request for hearing to establish an over issuance of FAP and FIP benefits received as a result of a determination that Respondent committed an IPV.
2. On October 28, 2010, the Respondent signed and submitted an assistance application (DHS-1171). On the assistance application, the

Respondent indicated his son was a household member and lived with him.

3. Respondent acknowledged he understood his failure to give timely, truthful, complete, and accurate information about his circumstances could result in a civil or criminal action, or an administrative claim against him.
4. From January 1, 2011 through July 31, 2011 the Respondent received \$ [REDACTED] in FIP benefits and [REDACTED] in FAP benefits.
5. At no point in time between January 1, 2011 and July 31, 2011 did the Respondent's son live with the Respondent.
6. From January 1, 2011 through July 31, 2011 the Respondent was eligible for \$0 in FIP benefits and \$ [REDACTED] in FAP benefits.
7. From January 1, 2011 through July 31, 2011, Respondent received an over issuance of FIP and FAP benefits totaling \$ [REDACTED].
8. There was no apparent physical or mental impairment present that limited Respondent's ability to understand and comply with his reporting responsibilities.
9. This was the first determined IPV committed by Respondent.

CONCLUSIONS OF LAW

The FAP (formerly known as the Food Stamp (FS) program) was 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 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 Bridges Reference Manual (BRM).

The FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the BAM, BEM and the BRM.

In the present matter, the Department requested a hearing to establish an over issuance of FAP benefits, claiming that the over issuance was a result of an IPV committed by Respondent.

Here the OIG provided unequivocal evidence that Respondent failed to keep the Department apprised of the changes in his group size and intentionally overstated his group size in January 2011 to obtain additional benefits.

When a client or group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700, p 1. A suspected IPV is defined as an over issuance 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. [BAM 720, p 1.]

An IPV is suspected by the Department when a client intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing a reduction of, program eligibility or benefits. BAM 720, p 1. In bringing an IPV action, the agency carries the burden of establishing the violation with clear and convincing evidence. BAM 720, 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. As at no time did the Respondent inform the Department of his correct group size as he knew he 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 did not receive an overissuance of program benefits in the amount of \$ [REDACTED] from the following program(s) FIP FAP SDA CDC.

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

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It is FURTHER ORDERED that Respondent be disqualified from FAP and FIP for a period of 1 year.

/s/ _____

Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
of Human Services

Department

Date Signed: March 14, 2013

Date Mailed: March 14, 2013

NOTICE: Respondent may appeal this decision and order to the circuit court for the county in which he / she resides within 30 days of receipt of this decision and order.

CAA/las

cc:

