

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

IN THE MATTER OF:



Reg. No.: 2013-31263
Issue No.: 3055; 5000
Case No.: [REDACTED]
Hearing Date: May 7, 2013
County: Lapeer

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 May 7, 2013, from Lansing, Michigan. The Department was represented by Resident Agent [REDACTED] [REDACTED] of the Office of Inspector General (OIG). Respondent personally appeared and provided testimony.

ISSUES

Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) and State Emergency Relief (SER) program benefits that the Department is entitled to recoup?

1. Did Respondent commit an Intentional Program Violation (IPV)?
2. Should Respondent be disqualified from receiving FAP?

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 2/26/13 to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. The OIG has requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of FAP during the period of April 1, 2009, through November 30, 2012, and SER benefits during the period of November 1, 2009, through November 30, 2012.

4. Respondent was aware of the responsibility to report all household members and all household income.
5. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. The Department's OIG indicates that the time period they are considering the fraud period is April 1, 2009, through November 30, 2012.
7. During the alleged fraud period, Respondent was issued \$ [REDACTED] in FAP and \$ [REDACTED] in SER benefits from the State of Michigan.
8. Respondent was entitled to \$0 in FAP and \$0 in SER during this time period.
9. Respondent did receive an OI in the amount of \$ [REDACTED] under the FAP program and \$ [REDACTED] under the SER program.
10. The Department has established that Respondent committed an IPV.
11. This was Respondent's first IPV.
12. A notice of hearing was mailed to Respondent at the last known address and 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 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 1999 AC, Rule 400.3001 through Rule 400.3015.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by, 1999 AC, Mich Admin Code, Rules 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

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 \$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 IPV disqualifies that client from receiving certain 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, or except when the overissuance relates to MA. Refusal to repay will not cause denial of current or future MA if the client is otherwise eligible. BAM 710. 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.

In this case, Respondent does not deny that she received the FAP and SER benefits. Respondent testified that her husband has not lived with her since 2008. Respondent contends that her husband moved to Utah at the end of July, 2009. Respondent stated she is not divorced, only separated. Respondent also reported that she has filed joint returns with her husband.

The department provided a copy of Respondent's husband's driver's license showing his residence is with Respondent. In addition, the department obtained an employment verification listing Respondent's address as her husband's. Furthermore, the Department of Treasury also lists Respondent's husband as living at Respondent's address.

Respondent was unable to provide any documentation of where her husband resided in Utah, claiming that he was living with a girlfriend and everything was under her name. Based on a review of the evidence, and Respondent's failure to refute that her husband has not been living with her during the fraud period of April, 2009, through November, 30, 2012, Respondent received an overissuance of FAP and SER benefits and the department is entitled to recoup \$25, [REDACTED]

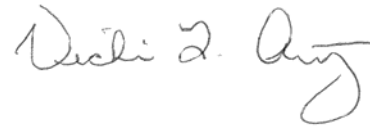
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, concludes that:

1. Respondent did commit an IPV.
2. Respondent did receive an OI of program benefits in the amount of \$ [REDACTED] from FAP and SER programs.

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 the FAP program for a period of 12 months.



Vicki L. Armstrong
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 28, 2013

Date Mailed: May 29, 2013

2013-31263/VLA

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.

VLA/las

cc:

