

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

**IN THE MATTER OF:**



Reg. No: 20133298  
Issue No: 3055  
Case No: [REDACTED]  
Hearing Date: December 12, 2012  
Hillsdale 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 December 12, 2012. The Respondent appeared and provided testimony.

**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 an application for public assistance on March 4, 2011 (DHS 1171), acknowledging her responsibility to report any changes in her income, resources, or living arrangement to the department within ten days of the change. (Department Exhibits 10-24).
3. At the time the Respondent submitted her assistance application, her husband was laid off.
4. In July 2011, the Respondent's husband returned to work.

5. The department contends that the Respondent did not inform the department that her husband had returned to work and that his wages exceeded the simplified reporting limit.
6. Because the department contends that the Respondent did not inform the department of her husband's employment and income from said employment, the department contends that the Respondent committed and 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 period of May 1, 2011 through February 29, 2012.
7. Respondent was clearly instructed and fully aware of the responsibility to report true and accurate information to the department.
8. Respondent had not committed any previous 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 not reporting to the department that her husband had returned to work and was receiving income as a result of that employment. At the hearing, the Respondent credibly testified that she had informed the department as soon as her husband returned to work, and that she provided paystubs to the department. The OIG agent present at the hearing testified that there was no indication in the department's records that the Respondent had submitted any paystubs or contacted the department regarding her husband's employment. This Administrative Law Judge credits the testimony of the Respondent and finds that as the Respondent did inform the

department of her husband's employment, she did not commit an intentional program violation of the FAP program.

However, the department did not properly budget the income of the Respondent's husband. Because said income was not properly budgeted, the Respondent received more benefits than to which she was entitled as a result of a department error. Therefore, the Respondent received an overissuance of FAP benefits in the amount of \$ [REDACTED] for the time period of May 1, 2011 through February 29, 2012. Based on policy, the department is required to recoup that overissuance even if the overissuance results from department error and not an intentional program violation. BAM 700. Therefore, the department is required to recoup the overissuance in this matter.

### **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. The department's claim to establish an IPV is **HEREBY DISMISSED**.

However, the Administrative Law Judge does find that the Respondent was overissued FAP benefits, and there is a current balance due and owing to the department in the amount of \$ [REDACTED]. Therefore, the Respondent received an overissuance of FAP benefits as a result of department error in the amount of \$ [REDACTED].

Accordingly, the Administrative Law Judge **ORDERS** that the Respondent shall reimburse the department for FAP benefits ineligibly received, and the department shall initiate collection procedures in accordance with department policy.

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

Date Signed: January 11, 2013

Date Mailed: January 11, 2013

**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.

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