

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-35981
Issue No.: 3055
Case No.: [REDACTED]
Hearing Date: June 5, 2013
County: Calhoun County DHS #21

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 from Detroit, Michigan. The Department was represented by [REDACTED] Regulation Agent, of the Office of Inspector General (OIG). Respondent appeared and testified.

ISSUES

Whether Respondent committed an Intentional Program Violation (IPV) and received an over-issuance Food Assistance Program (FAP) benefits that the department is entitled to recoup?

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 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 signed an assistance application with the department on 5/12/09 and 12/02/10 acknowledging that s/he understood her/his rights and responsibilities to report changes in household circumstances.
4. Respondent became employed with [REDACTED] – [REDACTED] on 3/20/10 and worked until 12/27/10.

5. Respondent was aware of the responsibility to report changes in her/his residence to the Department.
6. Respondent's income was not counted from 3/20/10-12/27/10.
7. Respondent received a FAP over-issuance in the amount of \$ [REDACTED] for the time period of 6/10/10-12/31/10.

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.

When a client group receives more benefits than they are entitled to receive, DHS 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 over-issuance 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 over-issuance amount is \$1000 or more, or
- the total over-issuance 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 IPV 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 who commit an IPV are disqualified for a standard disqualification period except when a court orders a different period, or except when the over-issuance 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 the instant case, the department OIG has established that the Respondent received an over issuance of FAP benefits in the amount of \$ [REDACTED] for the time period of 6/01/10-12/31/10 because her earned income was not budgeted. Respondent testified that she did notify her caseworker that she was working but could not remember when she provided the information. The department case worker who worked on the case was not present for the hearing to testify whether or not respondent reported the income. This Administrative Law Judge will find respondent's testimony to be credible. The department OIG has established by the necessary competent, substantial and material evidence on the record that claimant received an over issuance of FAP benefits which may be recouped.

DECISION AND ORDER

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

Respondent did receive an OI of program benefits in the amount of \$ [REDACTED] the Food Assistance Program.

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

It is FURTHER ORDERED that Respondent **not** be personally disqualified from participation in the Food Assistance Program because the department has not established an Intentional Program Violation under the circumstances.

/s/
Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 11, 2013

Date Mailed: June 12, 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.

LYL/las

cc:

