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

IN THE MATTER OF:



Reg. No:	2013-6275
Issue No:	3055

Hearing Date: May 7, 2013 Roscommon County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 May 7, 2013, at which Respondent did not appear. This matter having been initiated by the department and due notice hav ing been provided to Re spondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

<u>ISSUE</u>

Whether Respondent committed an Intentional Program Violation (IPV) of the Food Assistance Program (FAP) and whether Respondent received an overis suance of benefits that the department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and conv incing evidence on the whole record, finds as material fact:

- 1. Based on an investig ation of FAP trafficking , the department discovered that Claimant's EBT Bridge Card of FAP benefits had been trafficked with several other FAP recipients.
- 2. Respondent received \$ in F AP benefits during the alleged fraud period of 9/1/10 through 11/30/10. (Depart Ex. 1).
- 3. A Notice of Disqualification Hearing was mailed to the respondent at the last known address and was returned by the U.S. Post Office as undeliverable. Respondent's last known address is:

CONCLUSIONS OF LAW

The Food Assistanc e Program (FAP) (formerly known as the Food Stamp (FS) program) is establis hed by the Food St amp Act of 1977, as amended, and is implemented by the federal r egulations 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 Reference Tables Manual (RFT).

As a preliminary matter, the notice of the undeliverable. Mich Admin Code, Rules indicates that when correspondence to the c lient is returned as undeliverable, or a new address cannot be located, only FAP int pursued. BAM 720. Because this is department was allowed to proceed.

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 as ked that the respondent be disqualified from receiving benefits. When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700.

Clients that commit an intentional program violation are disqualified for a standard disqualification period except when a cour t orders a different period. Clients are disqualified for periods of one y ear for the first IPV, two years for the second IPV, lifetime dis qualification for t he third IPV, and ten y ears for a concurrent receipt of benefits. BAM 720. This is the respondent's first intentional program violation.

In this case, the department alleged Resp result of an OIG investigation. The dep Claimant's name, who were identified as trafficking but had not signed repayment agreements. (See Ex. 11). In addition, the department provided a list of purchases made with Claimant's Bridge card.

The OIG i nvestigation report indicates that the OIG obtained photos of many of the Bridge card clients identified through transactions. The woman who was buying and trafficking the Bridge cards identified several of the individuals in the photos as persons she had trafficked cards with. The wom an also stated that there were several individuals that had only shopped with her and us ed her membership to get into the store but had not trafficked their cards.

The department provided Claim ant's FAP purchas e histor y from 9/1/10 through 10/31/10. Of Claim ant's 12 tr ansactions, only 3 were at the proof in an intentional program violation is clear and convincing evidence on the whole record. The only evidence offered to link Claimant to FAP trafficking is his

name on a list of people accused of trafficking who have not signed a repay agreement, and Claim ant's three purchases at **and a second on** 9/6/10 for \$ 10/14/10 for \$ and 10/16/10 for \$ Because Claimant could have been a person who only shopped with the woman who did the FAP trafficking at **and a second bar** this Administrative Law Judge does not find the evidence clear or convincing.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and c onvincing evidence, decides there was no IPV on behalf of Respondent and the department failed to establish Respondent committed an Intent ional Program Violation. T herefore, the department's IPV action against Respondent cannot be upheld.

SO ORDERED.

Dichi Z.

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

Date Signed: May 28, 2013

Date Mailed: May 29, 2013

<u>NOTICE</u>: The law pr ovides 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

