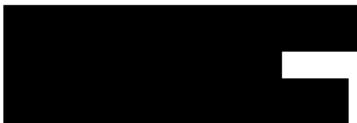


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201327007
Issue No.: 1052, 2006, 3055
Case No.: [REDACTED]
Hearing Date: June 4, 2013
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 June 4, 2013 from Lansing, Michigan. The Department was represented by [REDACTED] of the Office of Inspector General (OIG). Respondent appeared and provided testimony.

ISSUES

- i. Did Respondent receive an overissuance (OI) of Family Independence Program (FIP), Food Assistance Program (FAP) and Medical Assistance (MA) benefits that the Department is entitled to recoup?
- ii. Did Respondent commit an Intentional Program Violation (IPV)?
- iii. Should Respondent be disqualified from receiving Family Independence Program (FIP) and Food Assistance Program (FAP) benefits?

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 February 5, 2013 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 FIP, FAP, and MA benefits during the period of August 1, 2008 through February 28, 2009.
4. Respondent was aware of the responsibility to timely and accurately report to the Department changes in household circumstances including changes in group composition.
5. Respondent had no apparent physical or mental impairment that would limit his understanding or ability to fulfill this requirement.
6. The Department's OIG indicates that the time period they are considering the fraud period is August 1, 2008 through February 28, 2009.
7. During the alleged fraud period, Respondent was issued \$2,865.00 in FIP benefits, \$2,211.00 in FAP benefits and \$4,988.70 in MA benefits from the State of Michigan.
8. Respondent was entitled to \$0.00 in FIP and MA benefits and was eligible for \$1,204.00 in FAP benefits during this time period.
9. Respondent did receive an OI of FIP in the amount of \$2,865.00, an OI of MA in the amount of \$4,988.70 and an OI of FAP benefits in the amount of \$1,007.00. The total OI for FIP, FAP and MA was \$8,860.70.
10. The Department has established that Respondent committed an IPV.
11. This was Respondent's first FIP, FAP, and MA IPV.
12. A notice of disqualification 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

An Intentional Program Violation (IPV) is a benefit overissuance (OI) resulting from the willful withholding of information or other violation of law or regulation by the client or his/her authorized representative. See Program Glossary (PG) at page 24.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. PAM 700. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. PAM 720.

According to PAM 720, a “suspected IPV” means an OI exists for which the following three conditions exist:

- 1) The client intentionally failed to report information **or** intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, **and**
- 2) The client was clearly and correctly instructed regarding his or her reporting responsibilities, **and**
- 3) The client has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill their reporting responsibilities.

An 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. PAM 720.

The Department’s OIG requests IPV hearings for cases when:

- FAP trafficking OIs 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 IPV, **or**
 - The alleged IPV involves FAP trafficking, **or**

- The alleged fraud involves concurrent receipt of assistance (See PEM 222), **or**
- The alleged fraud is committed by a state/government employee. PAM 720.

A disqualified recipient remains a member of an active group as long as he/she lives with them. PAM 720. Other eligible group members may continue to receive benefits. PAM 720.

Clients who commit an IPV are disqualified for a standard disqualification period except when a court orders a different period. PAM 720. Clients are disqualified for periods of 1 (one) year for the first IPV, 2 (two) years for the second IPV, a lifetime disqualification for the third IPV, and 10 (ten) years for a concurrent receipt of benefits. PAM 720. If the court does not address disqualification in its order, the standard period applies. PAM 720.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. PAM 105. Clients are required to report changes within 10 (ten) days of receiving the first payment reflecting the change. PAM 105. Clients are required to report changes in circumstances within 10 (ten) days after the client is aware of them. PAM 105. These changes include, but are not limited to changes regarding: (1) persons in the home; (2) marital status; (3) address and shelter cost changes that result from the move; (4) vehicles; (5) assets; (6) child support expenses paid; (7) health or hospital coverage and premiums; or (8) child care needs or providers. PAM 105.

Clients must cooperate with the local office in determining initial and ongoing eligibility. PAM 105. This includes completion of necessary forms. PAM 105. Clients must completely and truthfully answer all questions on forms and in interviews. PAM 105. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM 105.

In the present case, the Department contends that Respondent is guilty of an IPV relating to the FIP, FAP and MA programs. The Department requests program disqualification and recoupment for FIP and FAP. According to the Department, Respondent failed to timely and accurately report that his son was no longer residing in the home. During the time period in question (2008 through 2009), the Department contends that Respondent falsely indicated that his son was living in his household when his son was actually living with the child's mother. Respondent, on the other hand, stated that his involvement was not intentional and that he is reading impaired. Respondent also testified that his teenage son actually completed the assistance application and all of the paperwork relating to his benefits.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine.

Dep't of Community Health, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

This Administrative Law Judge has carefully considered the testimony and has reviewed all of the record evidence in this matter. The record contains court records indicating that on August 19, 2008, the ██████████ County Circuit Court awarded legal and physical custody of Respondent's son to the mother. School records also established that Respondent's son resided with his mother during the 2008-2009 school year. In one of the school records, Respondent's mother was listed as "dead." Respondent denied any knowledge of this and testified that it was his son who completed this form and, most likely, was upset with his mother at the time. Respondent did not dispute the Department's calculations regarding the OI amounts for FIP, FAP, and MA.

The Department has sufficiently established that Respondent was aware of the responsibility to timely and accurately report to the Department all household changes including proper group composition. Although Respondent suffers from a reading impairment, he was aware that his son resided with his mother during the time period that he continued to receive FIP, FAP and MA benefits. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within 10 (ten) days. See PAM 105. Respondent's signature on the Assistance Application in this record certifies that he was aware that fraudulent participation in FIP, FAP, and MA could result in criminal, civil or administrative claims. This Administrative Law Judge finds that Respondent's impairment does not limit his understanding or ability to fulfill these reporting responsibilities.

This Administrative Law Judge therefore concludes that the Department has shown, by clear and convincing evidence, that Respondent committed an intentional violation of the FIP, FAP and MA programs resulting in a total \$8,860.70 overissuance. This is Respondent's first FIP and FAP IPV. Consequently, the Department's request for program disqualification and full restitution must be granted.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law concludes that:

- Respondent did commit an IPV.
- Respondent did receive a FIP, FAP and MA overissuance in the amount of \$8,860.70.

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The Department is ORDERED to initiate recoupment procedures for the amount of \$8,860.70 in accordance with Department policy.

It is FURTHER ORDERED that Respondent be disqualified from FIP and FAP benefits for a period of 12 months.

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 7, 2013

Date Mailed: June 10, 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.

CAP/aca

cc:

