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

IN THE MATTER OF:



Reg. No.: 2013-34938

Issue No.: 3055

Case No.: Hearing Date:

County:

May 7, 2013 Roscommon

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

This matter is before the undersigned Administ rative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Departm ent of Human Servic es' (Department) request for a hearing. After due notice, a telephone hearing was held on May 6 2013, from Lansing, Michigan. The Department was represented by Michigan. The Department was represented by General (OIG). Respondent did not appear at the hearing and it was held in Respondent's absence pursuant to 7 CFR 273. 16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5).

ISSUES

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

FINDINGS OF FACT

The Administrative Law Judge, based on t he competent, material, and substantial evidence on the whole record, finds as material fact:

- The Department's OIG filed a hearing r equest on March 19, 2013 to establis h an OI
 of benefits received by Respondent as a result of Responden t having alleged ly
 committed an IPV.
- 2. The OIG h as requested that Respondent be disqualified from receiving program benefits.
- 3. Respondent was a recipient of FAP and MA benefits duri ng the period of March 31, 2009, through July 5, 2011.
- Respondent was aware of the responsibility to report all changes within 10 days.

- 5. Respondent had no apparent physical or m ental 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 November 25, 2010 through July 5, 2011.
- 7. During the alleged fraud period, Respo ndent was is sued \$ in F AP benefits and \$ in MA benefits from the State of Michigan.
- 8. Respondent was entitled to \$0 in FAP and MA during this time period.
- 9. Respondent did receive an OI in the amount of \$ under the FAP program and \$ MA 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 Respond ent at the I ast known address and was returned by the US Post Office as undeliverable.

CONCLUSIONS OF LAW

Department policies are contained in the Br idges 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 amend ed, and is implemented by the federal regulations contained in Title 7 of the Code of Feder al Regulations (CFR). The Department (formerly known as the Fam ily Independence Agency) administers FAP pursuant to MCL 400.10, et seq., and 1999 AC, Rule 400.3001 through Rule 400.3015.

The Medic al Assistance (MA) program is est ablished by the Title XIX of the Socia I 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 Independ ence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MC L 400.105.

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 t o report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, and

- The client was clearly and co rrectly 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 sus pected when there is clear and convinc ing evidence that the client has intentionally withheld or misr epresented 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 overissuanc es 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 previ ous intentional program violation, or
 - the alleged IPV involves FAP trafficking, or
 - the alleged fraud involves c oncurrent receipt of assistance,
 - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an IP V disqualifies that client from receiving certain program benefits. A disqualified reci pient remains a member of an active group as long as he lives with them. Other eligib le 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, lifet ime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720.

Department policy indicates that when corre undeliverable, or a new address cannot be lo violation hearings will be pursued. BAM 720. Therefore, the MA intentional program violation hearing portion will be dismissed.

Additionally, in this case, the department has established by clear and convinc ing evidence that Respondent intentionally failed to report that she was no longer a resident of Michigan. Respondent's signature on this application certifies that she was aware

that fraudulent participation in FAP could result in criminal or civil or administrative claims. Because of Respondent's failur e to report her change in residency, she received an overissuance of and the department is entitled to recoup.

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.
- Respondent did receive an OI of program benefits in the amount of \$ from the following FAP program.

The Department is ORDERED to initiate recoupment procedures for the amount of in accordance with Department policy.

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

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

Date Signed: May 20, 2013

Date Mailed: May 20, 2013

NOTICE: 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 fo r the county in which he/she lives.

VLA/las

CC:

