

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

IN THE MATTER OF:



Reg. No.: 20136032
Issue No.: 3055
Case No.: [REDACTED]
Hearing Date: January 9, 2013
County: Lapeer County DHS

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 January 9, 2013 from Lansing, Michigan. The Department was represented by [REDACTED] of the Office of Inspector General (OIG). Respondent appeared and provided testimony.

ISSUES

1. Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?
2. Did Respondent commit an Intentional Program Violation (IPV)?
3. Should Respondent be disqualified from receiving 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 October 12, 2012 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 FAP benefits during the period of September 10, 2010 through June 30, 2011 and September 9, 2011 through June 30, 2012.
4. Respondent was aware of the responsibility to report to the Department any changes in income or employment which would affect FAP eligibility or the amount of benefits.
5. Respondent had no apparent physical or mental impairment that would limit her understanding or ability to fulfill the above reporting requirement.
6. The Department's OIG indicates that the time period they are considering the fraud period is November, 2010 through June, 2011 and November, 2011 through June, 2012.
7. During the alleged fraud period (November, 2010 through June, 2011), Respondent was issued \$ [REDACTED] in FAP benefits from the State of Michigan. During the alleged fraud period (November, 2011 through June, 2012), Respondent was issued \$ [REDACTED] in FAP benefits from the State of Michigan.
8. Respondent was entitled to \$0 in FAP during the period of November, 2010 through June, 2011. Respondent was entitled to \$ [REDACTED] in FAP during the period November, 2011 through June, 2012.
9. Respondent did receive an OI in the amount of \$ [REDACTED] (\$ [REDACTED] + \$ [REDACTED]) under the FAP program.
10. The Department has established that Respondent committed an IPV.
11. This was Respondent's first 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 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, the Department must attempt to recoup the OI. BAM 700.

According to BAM 720, "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.

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. BAM 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 BEM 222), **or**
 - The alleged fraud is committed by a state/government employee. BAM 720.

With regard to FAP cases only, an IPV exists when an administrative hearing decision, a repayment and disqualification agreement or court decision determines FAP benefits were trafficked. BAM 720.

For MA and CDC cases, an IPV exists when the client/AR or CDC provider:

- Is found guilty by a court, **or**
- Signs a DHS-4350 **and** the prosecutor or the office of inspector general (OIG), authorizes recoupment in lieu of prosecution, **or**
- Is found responsible for the IPV by an administrative law judge conducting an IPV or debt establishment hearing. BAM 720.

For FIP, SDA, CDC and FAP cases, the Department will disqualify an active **or** inactive recipient who:

- Is found by a court or hearing decision to have committed IPV, **or**
 - Has signed a Request for Waiver of Disqualification Hearing (DHS-826) or Disqualification Consent Agreement (DHS-830), **or**
 - Is convicted of concurrent receipt of assistance by a court, **or**
 - For FAP, is found by SOAHR or a court to have trafficked FAP benefits.
- BAM 720.

Clients who committed an IPV while receiving Aid to Families with Dependent Children (ADC) are to be disqualified under the FIP program. BAM 720.

A disqualified recipient remains a member of an active group as long as he lives with them. BAM 720. 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. BAM 720. If the court does not address disqualification in its order, the standard period applies. BAM 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. BAM 720.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105. Changes must be reported within 10 (ten) days of receiving the first payment reflecting the change. BAM 105. Income reporting requirements are limited to the following: (1) earned income including starting or stopping employment, changing employers, change in rate of pay, and change in work hours of more than five hours per week that is expected to continue for more than one month; (2) unearned income including starting or stopping a source of unearned income; and (3) change in gross monthly income of more than \$50 since the last reported change. BAM 105.

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

In the instant matter, the Department contends that Respondent is guilty of an IPV after she intentionally failed to timely notify the Department that her employment commenced. Respondent, at the time of application, worked as a bus driver for the Oxford School District. Each year Respondent was hired to work the school year and was laid off during summer recess. During the hearing, Respondent testified that she was not sure whether she informed the Department that she returned to work as a bus driver during the fraud period indicated above. Here, the Department has established

that Respondent was aware of the responsibility to timely and accurately report to the Department all changes in income and employment. As noted above, Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within 10 (ten) days. BAM 105.

This Administrative Law Judge therefore concludes that the Department has shown, by clear and convincing evidence, that Respondent committed an intentional violation of the FAP program which resulted in a \$ [REDACTED] total overissuance from November 1, 2010 through October 2005 through June 30, 2012. This is Respondent's first IPV of the FAP program. Consequently, the Department's request for FAP 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:

1. Respondent did commit an IPV.
2. Respondent did receive an overissuance of program benefits in the amount of \$ [REDACTED] from the FAP program.

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

It is FURTHER ORDERED that Respondent be disqualified from 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: January 14, 2013

Date Mailed: January 15, 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/cr

cc:

