

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

IN THE MATTER OF:



Reg. No.: 2013-38721
Issue No.: 3055
Case No.: [REDACTED]
Hearing Date: July 17, 2013
County: Genesee #6 County DHS

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 May 21, 2013 from Detroit, Michigan. The Department was represented by [REDACTED], Regulation Agent, of the Office of Inspector General (OIG). Respondent did appear at the hearing.

ISSUES

Whether Respondent committed an Intentional Program Violation (IPV) and received an over-issuance (OI) 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.
2. The OIG has requested that Respondent be disqualified from receiving program benefits.
3. Respondent filed application with the department on 3/08/11, acknowledging that s/he understood her rights and responsibilities to report changes in household circumstances.
4. Respondent was aware of the responsibility to report all household income.

5. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. Respondent received a FAP over-issuance in the amount of \$ [REDACTED] for the time period of 5/01/11-2/29/12.
7. This was Respondent's first alleged IPV.

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 overissuance 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 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, respondent alleges that she provided the department with all income information during the time that she was receiving FAP. Respondent stated that she gave the information to her caseworker in a timely manner. The caseworker who worked on this case was not present to testify at this hearing. No one from the department was present to testify from personal knowledge that claimant failed to provide income or change of circumstance information to her caseworker. The department has not established that claimant committed an Intentional Program Violation under the circumstances. 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 5/01/11-2/29/12. The department OIG has also established that one of the household members received earned income resulting in an over-issuance of Food Assistance Program benefits. The department OIG has established by the necessary competent, substantial and material evidence on the record that respondent received an over-issuance of FAP benefits.

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 not commit an IPV.
2. Respondent did receive an OI of program benefits in the amount of \$ [REDACTED] from the Food Assistance Program.

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

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

Date Signed: July 18, 2013

Date Mailed: July 19, 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:

[REDACTED]