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

IN THE MATTER OF:



Reg. No.: 2013-48920

Issue No.: 3055

Case No.: Hearing Date:

County:

July 16, 2013 Wayne-18

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 July 1 6, 2013, from Lansing, Michigan. The Department was represented by of the Office of Inspector General (OIG). Respondent did not appear at the hear ing and it was held in Respondent's abs ence purs uant to 7 CFR 273.16(e), Mich Adm in Code R 400.3130(5), or Mich Admin Code R 400.3178(5).

<u>ISSUES</u>

- 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 di squalified from receivi ng F ood Assist ance 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:

- 1. The Department's OIG filed a hearing request on May 30, 2013 to establish an OI of benefits received by Respondent as a result of Res pondent having allegedly committed an IPV.
- 2. The OIG has requested that Respondent be disqualified from receiving program benefits.
- Respondent was a recipient of FAP benef its during the period of June 1, 2009, through August 31, 2011.

- 4. Respondent was aware of the res ponsibility to repor t all changes in circumstances within 10 days.
- 5. Respondent had no a pparent physical or mental impa irment 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 12, 2010 through August 31, 2011.
- 7. During the alleged fraud per iod, Respond ent was is sued \$ in F AP benefits from the State of Michigan.
- 8. Respondent was entitled to \$0 in FAP during this time period.
- Respondent did receive an OI in t he am ount of \$ un der the FAP program.
- 10. The Department has established that Respondent committed an IPV.
- 11. This was Respondent's second IPV.
- 12. A notice of hearing was mailed to Res pondent at the last 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 19 77, as amended, 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.

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.

Additionally, in this case, the department has established by clear and convinc ing evidence that Respondent intentionally failed to report that she moved out of the state of Michigan. Respondent's signature on this applic ation certifies that she was aware that fraudulent participation in FAP could result in cr iminal or civil or adm inistrative claims. Because of Respondent's failure to repor that she was no longer a resident of Michigan, 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.
- 2. Respondent did receive an OI of program benefits in the amount of \$ from the following program FAP.

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 24 months.

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

Date Signed: July 19, 2013

Date Mailed: July 19, 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.

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