

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

IN THE MATTER OF:

[REDACTED]

Registration No: 2013-19803
Issue No: 3055
Case No: [REDACTED]
Hearing Date: March 13, 2013
Jackson County DHS

Administrative Law Judge: Corey A. Arendt

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 March 13, 2013, from Lansing, Michigan. The Department was represented by [REDACTED] [REDACTED] of the Office of Inspector 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 400.3187(5).

ISSUE

1. Did Respondent receive an over issuance (OI) of Family Independence Program (FIP), Food Assistance Program (FAP), State Disability Assistance (SDA), Child Development and Care (CDC) benefits that the Department is entitled to recoup?
2. Did Respondent commit an Intentional Program Violation (IPV)?
3. Should Respondent be disqualified from receiving Family Independence Program (FIP), Food Assistance Program (FAP), State Disability Assistance (SDA), Child Development and Care (CDC)?

FINDINGS OF FACT

Based on the clear and convincing evidence pertaining to the whole record, I find as material fact:

1. The Department's OIG filed a request for hearing to establish an over issuance of FAP benefits received as a result of a determination that Respondent committed an IPV.

2. On June 27, 2011, the Respondent signed and submitted an assistance application (DHS-1171). On the assistance application, the Respondent failed to indicate she lived with [REDACTED] [REDACTED] whom had employment at [REDACTED] [REDACTED] [REDACTED].
3. Respondent acknowledged she understood her failure to give timely, truthful, complete, and accurate information about her circumstances could result in a civil or criminal action, or an administrative claim against her.
4. From July 1, 2011 through September 30, 2011, the Respondent received \$ [REDACTED] in FAP benefits.
5. From July 1, 2011 through September 30, 2011, the Respondent was eligible for \$0 in FAP benefits.
6. From July 1, 2011 through September 30, 2011, Respondent received an over issuance of FAP benefits totaling \$ [REDACTED].
7. There was no apparent physical or mental impairment present that limited Respondent's ability to understand and comply with her reporting responsibilities.
8. This was the first determined IPV committed by Respondent.

CONCLUSIONS OF LAW

The FAP (formerly known as the Food Stamp (FS) program) was 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In the present matter, the Department requested a hearing to establish an over issuance of FAP benefits, claiming that the over issuance was a result of an IPV committed by Respondent.

Here the OIG provided unequivocal evidence that Respondent failed to notify the Department of her housemate and housemate's income to obtain additional benefits.

When a client or group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700, p 1. A suspected IPV is defined as an over issuance where:

- 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. BAM 720, p 1.

An IPV is suspected by the Department when a client intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing a reduction of, program eligibility or benefits. BAM 720, p 1. In bringing an IPV action, the agency carries the burden of establishing the violation with clear and convincing evidence. BAM 720, p 1.

Based on the credible testimony and other evidence presented, I have concluded the OIG established, under the clear and convincing standard, that Respondent committed an IPV in this matter. As at no time did the Respondent inform the Department of her correct group size or groups income as she knew she was required to do in order to receive additional benefits.

DECISION AND ORDER

I have concluded, based upon the above Findings of Fact and Conclusions of Law:

1. Respondent did did not commit an IPV
2. Respondent did did not receive an over issuance of program benefits in the amount of \$ [REDACTED] from the following program(s) FIP FAP SDA CDC.

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 for a period of 1 year.

/s/ _____

Corey A. Arendt
 Administrative Law Judge
 for Maura D. Corrigan, Director
 of Human Services

Department

Date Signed: March 14, 2013

Date Mailed: March 14, 2013

2013-19803/CAA

NOTICE: Respondent may appeal this decision and order to the circuit court for the county in which he / she resides within 30 days of receipt of this decision and order.

CAA/las

cc:

