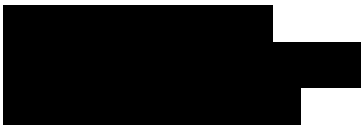


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201325023
Issue No.: 1000, 3055
Case No.: [REDACTED]
Hearing Date: June 5, 2013
County: Ionia

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 June 5, 2013 from Lansing, Michigan. The Department was represented by [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).

ISSUES

- i. Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?
- ii. Did Respondent commit an Intentional Program Violation (IPV)?
- iii. 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 January 22, 2013 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 October 1, 2009 through January 31, 2010.
4. Respondent was aware of the responsibility to timely report to the Department any changes in circumstances including changes in residency.
5. Respondent had no apparent physical or mental impairment that would limit her understanding or ability to fulfill this requirement.
6. The Department's OIG indicates that the time period they are considering the fraud period is October 1, 2009 through January 31, 2010.
7. During the alleged fraud period, Respondent was issued \$2,104.00 in FAP benefits from the State of Michigan.
8. Respondent was entitled to \$0.00 in FAP during this time period.
9. Respondent did receive an OI of FAP benefits in the amount of \$2,104.00.
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 returned by the US Post Office as undeliverable.

CONCLUSIONS OF LAW

Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), 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.

An Intentional Program Violation (IPV) is a benefit overissuance (OI) resulting from the willful withholding of information or other violation of law or regulation by the client or his/her authorized representative. See Program Glossary (PG) at page 22.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. PAM 700. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. PAM 720.

According to PAM 720, a “suspected IPV” means an OI exists for which the following three conditions exist:

- 1) The client intentionally failed to report information **or** intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, **and**
- 2) The client was clearly and correctly instructed regarding his or her reporting responsibilities, **and**
- 3) 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. PAM 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 PEM 222), **or**
 - The alleged fraud is committed by a state/government employee. PAM 720.

A disqualified recipient remains a member of an active group as long as he/she lives with them. PAM 720. Other eligible group members may continue to receive benefits. PAM 720.

Clients who commit an IPV are disqualified for a standard disqualification period except when a court orders a different period. PAM 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. PAM 720. If the court does not address disqualification in its order, the standard period applies. PAM 720.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. PAM 105. Clients are required to report changes within 10 (ten) days of

receiving the first payment reflecting the change. PAM 105. Clients are required to report changes in circumstances within 10 (ten) days after the client is aware of them. PAM 105. These changes include, but are not limited to changes regarding: (1) persons in the home; (2) marital status; (3) address and shelter cost changes that result from the move; (4) vehicles; (5) assets; (6) child support expenses paid; (7) health or hospital coverage and premiums; or (8) child care needs or providers. PAM 105.

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

In the present case, 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. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within ten days. PAM 105. Respondent's signature on the Assistance Application in this record certifies that she was aware that fraudulent participation in FAP could result in criminal, civil or administrative claims. The record contained an Electronic Benefit Transfer (EBT) History of FAP purchases during the time period in question which demonstrated that Respondent used her Michigan-issued EBT card in Georgia for 30 days or more. The evidence shows that Respondent did not report this to the Department within 10 days as required per policy. In addition, Respondent had no apparent physical or mental impairment that limits her understanding or ability to fulfill these reporting responsibilities.

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 resulting in a total \$2,104.00 overissuance. This is Respondent's first FAP IPV. Consequently, the Department's request for FAP program disqualification and full restitution must be granted.

In the instant matter, the Department requested an IPV hearing concerning the claimant's Family Independence Program (FIP) benefits. However, the notice of disqualification hearing was mailed to Respondent at the last known address ([REDACTED] [REDACTED], Michigan [REDACTED]) and was returned by the US Post Office as undeliverable. In accordance with Program Administrative Manual (PAM) 725, p 18, an IPV hearing may not proceed and must be dismissed, where Respondent fails to appear and the notice of hearing is returned as undeliverable.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law concludes that:

- Respondent did commit an IPV.
- Respondent did receive a FAP overissuance in the amount of \$2,104.00.

The Department is ORDERED to initiate recoupment procedures for the amount of \$2,104.00 in accordance with Department policy.

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

With regard to the Department's request for IPV disqualification hearing concerning FIP, the above-captioned matter is **DISMISSED** without prejudice.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

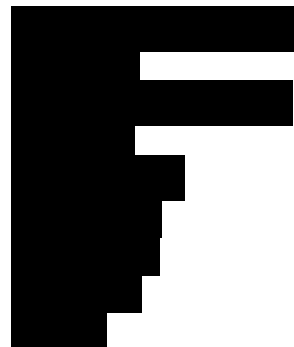
Date Signed: June 6, 2013

Date Mailed: June 6, 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.

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