

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201339569
Issue No.: 3052
Case No.: [REDACTED]
Hearing Date: May 2, 2013
County: Wayne County (#49)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted on Thursday, May 2, 2013 from Detroit, Michigan. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) was [REDACTED] (Family Independence Manager).

ISSUE

Whether the Department properly reduced the Claimant's 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 Claimant is an ongoing FAP recipient.
2. On December 20, 2012, an Administrative Hearing was held regarding the issue of Claimant's alleged intentional program violation (IPV).
3. The Claimant did not appear at hearing. The Hearing decision issued January 30, 2013 held Claimant did commit an IPV, and as a result received an over issuance of FAP benefits in the amount of \$7,955.65, for which the Department is to initiate recoupment.

4. On February 5, 2013, the Department sent Claimant Intentional Program Violation Notice that she is disqualified from the FAP group for 12 months beginning March 1, 2013, which resulted in a reduction in FAP benefits; and further informed her that she must repay the FAP over issuance amount. (Exhibit 1)
5. On March 1, 2013, the Department received Claimant's written hearing request protesting the Department action.

CONCLUSIONS OF LAW

The Department of Human Services (DHS) 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 Mich Admin Code, R 400.3001 through R 400.3015.

When a court or administrative hearing decision finds a client committed IPV it disqualifies that client from receiving FAP 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 (February 2013), p. 11. All IPV disqualifications must be served immediately. The Department is to begin the disqualification the first month after the notice is sent, unless the action is untimely. BAM 720, p. 15.

In this case, an administrative hearing was held on December 20, 2012, where the Claimant was found to have committed an IPV which disqualifies her from receiving FAP benefits for a 12 month period. Claimant asserts that she had a good reason for not attending the IPV hearing and disputes the findings made in the January 30, 2012 hearing decision. The IPV matter has been properly adjudicated and any appeal of the hearing decision must be made to circuit court. Apparently, the Claimant's appeal to circuit court was denied due to being untimely. The undersigned ALJ has no jurisdiction to alter or reverse the previous hearing decision. The Department merely implemented the prior hearing decision order by removing the Claimant from the FAP group (which resulted in the reduction in FAP benefits). Therefore, the Department established it acted in accordance with policy when it disqualified the Claimant from the FAP group due to an intentional program violation.

Accordingly, the Department action is upheld.

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, finds that the Department acted in accordance with policy when it reduced the Claimant's FAP benefits due to an IPV effective March 1, 2013.

Accordingly, the Department's FAP determination is hereby, **AFFIRMED**.

M. Howie

Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/7/2013

Date Mailed: 5/7/2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

MH/hw

cc:

