

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201343487
Issue No.: 3055
Case No.: [REDACTED]
Hearing Date: May 28, 2013
County: Oakland County (#03)

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 Tuesday, May 28, 2013 from Detroit, Michigan. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistant Payment Supervisor) and [REDACTED] (Recoupment Specialist).

ISSUE

Whether the Department properly disqualified Claimant from receiving Food Assistant 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 was a FAP recipient.
2. On September 11, 2012 the Claimant signed an Intentional Program Violation (IPV) repayment agreement in the amount of \$502 and Disqualification Consent Agreement agreeing to a one year disqualification from receiving FAP benefits from 11/1/12 thru 10/31/13. (Exhibits 3 & 4)
3. On September 24, 2012 the Department sent Claimant notice of the IPV and one year disqualification being imposed based on Claimant's signed agreement waiving right to hearing or prosecution.

4. On April 26, 2013 the Department received the Claimant's written hearing request protesting the disqualification.

CONCLUSIONS OF LAW

The Department of Human Services 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.

The federal Food Stamp regulations read in part:

- (c) Definition of Intentional Program Violation. Intentional Program Violation shall consist of having intentionally:
 - (1) made a false or misleading statement, or misrepresented, concealed or withheld facts; or
 - (2) committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device). 7 CFR 273.16(c).
 - (6) Criteria for determining intentional program violation. The hearing authority shall base the determination of intentional program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional program violation as defined in paragraph (c) of this section.

7 CFR 273.16(c)(6).

An IPV exists when determined by an administrative hearing decision, a repayment and

disqualification agreement or court decision determines FAP benefits were trafficked.

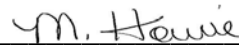
Clients who commit an IPV are disqualified for a standard disqualification period except when a court orders a different period. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifetime disqualification for the third IPV, and ten years for the concurrent improper receipt of FIP and FAP benefits. BAM 720 (February 1, 2013).

In the current case, an IPV was established based on Claimant willingly signing a Repayment Agreement and Consent to Disqualification Agreement. Once the IPV was established the Claimant had 90 days to contest the disqualification/ benefit reduction amount only. Claimant testified that he requested a hearing because he does not agree with the IPV and/or disqualification because he did not understand the actions. Claimant waived the right to an administrative hearing on the facts that led to the IPV determination. Any further disagreement with the action must be appealed to the appropriate court. Accordingly, the Department's action of imposing a one year FAP disqualification 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 established that it acted in accordance with policy with regards to Claimant's FAP disqualification.

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



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

Date Signed: 6/6/2013

Date Mailed: 6/6/2013

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:

