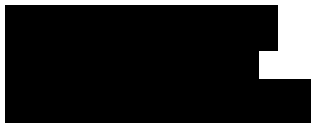


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2013-5212
Issue No: 3055, 4060
Case No: [REDACTED]
Hearing Date: March 13, 2013
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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).

ISSUES

1. Did Respondent receive an overissuance (OI) of Family Independence Program (FIP), Food Assistance Program (FAP), State Disability Assistance (SDA), Child Development and Care (CDC), Medical Assistance (MA) 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

I find as material fact, based on the competent, material, and substantial evidence on the whole record:

1. The Department's OIG filed a hearing request on October 12, 2012 to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. Respondent was a recipient of FAP benefits during the period of August 1, 2010 through May 31, 2011.

3. Respondent was a recipient of MA benefits during the period of January 1, 2011 through May 31, 2011.
4. Respondent was was not aware of the responsibility to report all changes within 10 days.
5. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. The Department's OIG indicated the time period they are considering the fraud period is August 1, 2010 through May 31, 2011.
7. During the alleged fraud period, Respondent was issued \$ [REDACTED] in FAP benefits from the State of Michigan.
8. From January 1, 2011 through May 31, 2011, the Claimant received \$ [REDACTED] in MA benefits due to Department error.
9. The Department has has not established that Respondent committed an IPV.
10. A notice of disqualification hearing was mailed to Respondent at the last known address and was was not returned by the US Post Office as undeliverable.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The FAP [formerly known as the Food Stamp (F S) 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.

The MA program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

In this case, the department has requested a disqualification hearing to establish an overissuance of benefits as a result of an IPV and the department has asked that the respondent be disqualified from receiving benefits. The department's manuals provide the following relevant policy statements and instructions for department caseworkers.

When a customer/client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700. A suspected intentional program violation means an overissuance 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.

The department suspects an intentional program violation when the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the client acted intentionally for this purpose. BAM 720.

The department's Office of Inspector General processes intentional program hearings for overissuances referred to them for investigation. The Office of Inspector General represents the department during the hearing process. The Office of Inspector General requests intentional program hearings for cases when:

- benefit overissuances 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 intentional program violation, or
 - the alleged IPV involves FAP trafficking, or
 - the alleged fraud involves concurrent receipt of assistance,
 - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an intentional program violation disqualifies that client from receiving program 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.

Clients that commit an intentional program violation 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 a concurrent receipt of benefits. BAM 720. This is the respondent's first intentional program violation.

In the case at hand, the Department alleges the Respondent committed an intentional program violation by failing to report her son and daughter no longer lived with her. However the time periods in question show the daughter moved out in August of 2010 and the son moved out in December of 2010. Yet, the Department budgeted the alleged over issuance from August 2010 through December 2010 using a group size of one. The group size should have been two based upon the facts contained in the hearing packet. Furthermore, I am a bit confused as the evidence in the hearing packet indicates the Claimant may have been receiving dual assistance from the State of Indiana during the time period in question. If this is the case, the Claimant would be ineligible for FAP benefits entirely.

That being said, I still find an OI of MA benefits in the amount of \$ [REDACTED] attributed to Department error. It appears the Respondent notified the Department about the children leaving the home in January of 2011 yet the Department continued to provide the Respondent with MA benefits she wasn't eligible for.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, cannot determine by clear and convincing evidence that the respondent has committed an intentional program violation of the FAP program.

Accordingly, this matter is FAP IPV issue is **DISMISSED** without prejudice.

I also find based upon the above findings of fact and conclusions of law, the Respondent received an over issuance of MA benefits for the time period of January 2011 through March 31, 2011 that the Department is entitled to recoup.

The Department is therefore entitled to recoup a MA over issuance of \$ [REDACTED] from the Respondent.

The Department shall initiate collection procedures in accordance with Department policy.

/s/

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

Date Signed: March 14, 2013

Date Mailed: March 14, 2013

2013-5212/CAA

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.

CAA/las

cc:

