

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

IN THE MATTER OF:



Reg. No: 20135405
Issue No: 3055
Case No: [REDACTED]
Hearing Date: January 17, 2013
Genesee County DHS #6

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 disqualification hearing. After due notice, a telephone hearing was held on January 17, 2013. The Respondent appeared and provided testimony.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) of the Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing evidence on the whole record, finds as material fact:

1. The department's Office of Inspector General (OIG) filed a hearing request to establish an overissuance of benefits received by Respondent as a result of Respondent having committed an Intentional Program Violation (IPV); the OIG also requested that Respondent be disqualified from receiving program benefits.
2. Respondent completed an application for public assistance on November 10, 2010 (DHS 1171), acknowledging her responsibility to report any changes in her income, resources, or living arrangement to the department within ten days of the change. (Department Exhibits 6-21).
3. At the time the Respondent submitted her assistance application, she reported that no one in the household was employed.

4. As a result of a wage match inquiry, the department determined that the Respondent had been employed since March 17, 2011 and that she had received income as a result of that employment. (Department Exhibit 27).
5. The department contends that the Respondent did not inform the department that she was employed and was receiving income as a result of that employment.
6. Because the department contends that the Respondent did not inform the department of her employment and income from said employment, the department contends that the Respondent committed an intentional program violation of the FAP program which resulted in the Respondent receiving an overissuance of FAP benefits in the amount of \$ [REDACTED] for the period of May 1, 2011 through August 31, 2011.
7. Respondent was clearly instructed and fully aware of the responsibility to report true and accurate information to the department.
8. Respondent had not committed any previous intentional program violations.

CONCLUSIONS OF LAW

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 of Human Services (DHS or 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 Program Reference Manual (PRM).

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 this case, the department contends that the Respondent committed an intentional program violation by not reporting to the department that she was employed and receiving income as a result of that employment. At the hearing, the Respondent

testified that she did in fact inform the department that she was employed; roughly a week after employment began. She further testified that after she informed the department of her employment, she was sent a verification of employment form that she filled out and submitted to the department. Prior to the closure of the hearing record, this Administrative Law Judge requested that the OIG provide a copy of the DHS correspondence sent to the Respondent during the time period in question (see ALJ Exhibit A). The correspondence history shows no record of an employment verification checklist being sent to the Respondent during the time period in question. As the evidence presented does not correlate with the testimony given by the Respondent, this Administrative Law Judge does not find the Respondent's testimony to be credible. What is clear is that the Respondent was employed as of March 17, 2011 and that the department was not made aware of that employment until the wage match inquiry was conducted on July 27, 2012. Accordingly, this Administrative Law Judge finds that the department has shown, by clear and convincing evidence, that the Respondent committed an intentional program violation of the FAP program by not reporting her income timely.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds clear and convincing evidence that the Respondent committed an Intentional Program Violation by failing to notify the department of her employment and resultant income.

Therefore, it is HEREBY ORDERED that:

1. The Respondent shall reimburse the department for FAP benefits ineligibly received as a result of her intentional program violation in the amount of \$ [REDACTED]
2. The Respondent is personally ineligible to participate in the FAP program for the period of one year. The disqualification period shall be applied immediately.

/s/ _____
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 8, 2013

Date Mailed: February 11, 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.

CSS/cr

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