

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-6275
Issue No: 3055
[REDACTED] [REDACTED]
Hearing Date: May 7, 2013
Roscommon County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 May 7, 2013, at which Respondent did not appear. This matter having been initiated by the department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) of the Food Assistance Program (FAP) and whether Respondent received an overissuance of benefits that the department is entitled to recoup?

FINDINGS OF FACT

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

1. Based on an investigation of FAP trafficking, the department discovered that Claimant's EBT Bridge Card of FAP benefits had been trafficked with several other FAP recipients.
2. Respondent received \$ [REDACTED] in FAP benefits during the alleged fraud period of 9/1/10 through 11/30/10. (Depart Ex. 1).
3. A Notice of Disqualification Hearing was mailed to the respondent at the last known address and was returned by the U.S. Post Office as undeliverable. Respondent's last known address is: [REDACTED]
[REDACTED]

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 Reference Tables Manual (RFT).

As a preliminary matter, the notice of the hearing was returned to the Post Office as undeliverable. Mich Admin Code, Rules 400.3130(5); BAM 725. Department policy indicates that when correspondence to the client is returned as undeliverable, or a new address cannot be located, only FAP intentional program violation hearings will be pursued. BAM 720. Because this is a FAP intentional program violation, the department was allowed to proceed.

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. When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700.

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 alleged Respondent was trafficking FAP benefits as a result of an OIG investigation. The department presented a list of clients, which Claimant's name, who were identified as trafficking but had not signed repayment agreements. (See Ex. 11). In addition, the department provided a list of purchases made with Claimant's Bridge card.

The OIG investigation report indicates that the OIG obtained photos of many of the Bridge card clients identified through [REDACTED] [REDACTED] transactions. The woman who was buying and trafficking the Bridge cards identified several of the individuals in the photos as persons she had trafficked cards with. The woman also stated that there were several individuals that had only shopped with her and used her [REDACTED] [REDACTED] membership to get into the store but had not trafficked their cards.

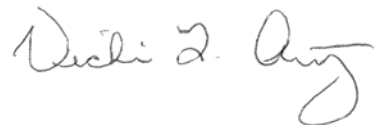
The department provided Claimant's FAP purchase history from 9/1/10 through 10/31/10. Of Claimant's 12 transactions, only 3 were at [REDACTED] [REDACTED] and totaled \$[REDACTED]. The proof in an intentional program violation is clear and convincing evidence on the whole record. The only evidence offered to link Claimant to FAP trafficking is his

name on a list of people accused of trafficking who have not signed a repay agreement, and Claimant's three purchases at [REDACTED] [REDACTED] on 9/6/10 for \$ [REDACTED] 10/14/10 for \$ [REDACTED] and 10/16/10 for \$ [REDACTED]. Because Claimant could have been a person who only shopped with the woman who did the FAP trafficking at [REDACTED] [REDACTED] this Administrative Law Judge does not find the evidence clear or convincing.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides there was no IPV on behalf of Respondent [REDACTED] and the department failed to establish Respondent committed an Intentional Program Violation. Therefore, the department's IPV action against Respondent cannot be upheld.

SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 28, 2013

Date Mailed: May 29, 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.

VLA/las

cc:

