

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201429310
Issue No.: 3005
Case No.: [REDACTED]
Hearing Date: July 8, 2014
County: Wayne County DHS #31

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

Upon the request for a hearing by the Department of Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16, and with Mich Admin Code, R 400.3130 and R 400.3178. After due notice, a telephone hearing was held on July 8, 2014 from Lansing, Michigan. The Department was represented by [REDACTED], Regulation Agent of the Office of Inspector General (OIG). Respondent did not appear at the hearing. In accordance with 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5), and Bridges Administration Manual (BAM) 720 the hearing proceeded in Respondent's absence.

ISSUE

Whether Respondent received multiple FAP benefits simultaneously by making a fraudulent statement or representation regarding his identity or residence and whether Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits from May 1, 2012 to September 30, 2012 which 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) On November 18, 2010, Respondent submitted an assistance application in Michigan under the name [REDACTED]. Respondent provided a Michigan address, used Social Security number [REDACTED], indicated he was not claiming disability and reported no sources of income. The assistance application in evidence does not bear the signature of a Department representative or case worker.

- (2) On October 17, 2011, the Department sent a Redetermination (DHS-1010) to [REDACTED] at the address Respondent provided on the November 18, 2010 application.
- (3) On October 24, 2011, the Redetermination (DHS-1010) was returned to the Department. Social Security number [REDACTED] had been hand written in and the form was signed by [REDACTED]. The Redetermination (DHS-1010) in evidence does not bear the signature of a Department representative or [REDACTED] the assigned case worker.
- (4) On September 18, 2012, RA Garner sent an out of state inquiry about Respondent to Mississippi.
- (5) On September 21, 2012, [REDACTED] supplied information that [REDACTED] received SNAP benefits from April 2012 through September 30, 2012, had Supplemental Security Income (SSI) of \$ [REDACTED] and used the address [REDACTED].
- (6) On March 5, 2014, the Office of Inspector General submitted this request for a hearing to disqualify Respondent from receiving Food Assistance Program (FAP) benefits.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3001-3015.

Bridges Administration Manual (BAM) 720 Intentional Program Violation (2014) governs the Department's actions in this case. The Department's OIG requests IPV hearings for the following cases:

Prosecution of welfare fraud or FAP trafficking is declined by the prosecutor for a reason other than lack of evidence, **and**

the total OI amount for the FIP, SDA, CDC, MA and FAP programs is \$1000 or more, **or**
the total OI amount is less than \$1000, **and**

the group has a previous IPV, **or**
the alleged IPV involves FAP trafficking, **or**
the alleged fraud involves concurrent receipt of assistance (see BEM 222), **or**
the alleged fraud is committed by a state/government employee.

Intentional Program Violation

BAM 720 states that a suspected IPV means an OI exists for which all three of the following conditions exist:

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 reporting responsibilities.

An IPV requires that the Department establish by clear and convincing evidence that the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. In other words, the Department must show that the Respondent engaged in a fraudulent act or omission which he knew would result in receiving assistance he was not eligible for.

In this case, the Department presented evidence which shows that Respondent received Food Assistance Program benefits from both Michigan and Mississippi from April 2012 through September 2012. BAM 720 specifies a ten-year disqualification for concurrent receipt of benefits if fraudulent statements were made regarding identity or residency.

The Department has submitted a November 18, 2010 Assistance Application (DHS-1171) and October 24, 2011 Redetermination (DHS-1010) which Respondent submitted to the Department prior to the alleged IPV. (Exhibit 1, pp. 11-35) This evidence is sufficient to establish that Respondent was aware of reporting requirements as well as the conditions that constitute fraud/IPV and trafficking and the potential consequences.

However, the evidence in this record raises more questions than it answers. The lack of a Department representative's signature on either Michigan application is contrary to Department policy. Respondent provided his full name including his sir name of [REDACTED] yet the Department approved and issued him benefits under an incorrect name. Mississippi indicates Respondent was receiving Supplemental Security Income (SSI). The Social Security Administration had determined Respondent was disabled which raises the question of whether Respondent had an impairment that would limits his understanding or ability to fulfill reporting responsibilities. The Department began to look into Respondent's association with Mississippi in September 2012 but there is no evidence that indicates what information caused the inquiry.

The Department's clear and convincing evidentiary burden requires presenting evidence sufficient to result in a clear and firm belief that the proposition is true. See M Civ JI 8.01.e The evidence in this record does not meet that standard. Therefore, the Department HAS NOT established that Respondent committed an IPV. No further

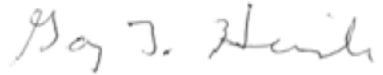
analysis is required to decide this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department has NOT established by clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV).

This Departmental action is **REVERSED**.

The Department is ORDERED to delete the OI and cease any recoupment action.



Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 24, 2014

Date Mailed: July 24, 2014

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.

GFH/hj

cc:

