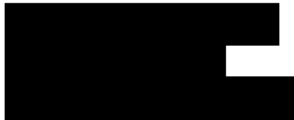



STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:




Reg. No.: 201428396
Issue No.: 3005
Case No.: 
Hearing Date: July 10, 2014
County: Wayne County DHS#55

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 10, 2014 from Lansing, Michigan. The Department was represented by Regulation Agent Christian of the Office of Inspector General (OIG). Respondent appeared and testified.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) and whether that Intentional Program Violation (IPV) caused Respondent to receive a \$ over-issuance of Food Assistance Program (FAP) benefits from August 1, 2008 to April 30, 2009 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 January 1, 2008, Respondent was an ongoing recipient of \$ per month of Food Assistance Program benefits.
2. On March 14, 2008, Claimant filed for Unemployment Compensation Benefits. (Page 28)
3. On May 22, 2008 Respondent signed the affidavit in an Assistance Application (DHS-1171) certifying that she was aware of reporting requirements as well as the conditions that constitute fraud/IPV and trafficking and the potential consequences.
4. On June 18, 2008, Respondent began receiving Unemployment Compensation Benefits payments.

5. On July 1, 2008, Respondent's Food Assistance Program benefits dropped from \$█ per month to \$10 per month. (Page 50)
6. On August 1, 2008, Respondent's Food Assistance Program benefits went back up to \$█ per month. (Page 50)
7. On April 1, 2009, Respondent's Food Assistance Program benefits went from \$323 per month to \$█ per month. (Page 53)
8. On May 1, 2009, Respondent's Food Assistance Program benefits went from \$367 per month to \$█ per month. (Page 53)
9. On June 1, 2009, Respondent's Food Assistance Program benefits went from \$16 per month back up to \$█ per month. (Page 52)
10. The Department's OIG filed a disqualification hearing request on February 27, 2014.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT). Prior to August 1, 2008, Department policies were contained in the Department of Human Services Program Administrative Manuals (PAM), Department of Human Services Program Eligibility Manual (PEM), and Department of Human Services Reference Schedules Manual (RFS).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10; the Social Welfare Act, MCL 400.1-.119b; and Mich Admin Code, R 400.3001 to .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 s/he knew would result in receiving assistance s/he was not eligible for.

In this case, the Department asserts that Respondent committed an Intentional Program Violation (IPV) by intentionally failing to report the beginning of Unemployment Compensation Benefits in June 2008. During this hearing Claimant testified credibly that she called DHS and reported the Unemployment Compensation Benefits in June 2008. The July 1, 2008 reduction of her Food Assistance Program benefits to \$█ supports a conclusion that the Department had knowledge of the Unemployment Compensation Benefits. Claimant also testified credibly that she was filing for UCB as well as reporting in with hopes of additional extensions of benefits.

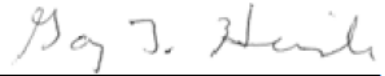
The evidence in this record contradicts the alleged Intentional Program Violation (IPV).

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 has established that Respondent DID NOT commit an Intentional Program Violation (IPV).

201428396/GFH

It is ORDERED that the actions of the Department of Human Services, in this matter, are **NOT UPHELD**.



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

Date Signed: September 4, 2014

Date Mailed: September 4, 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:

