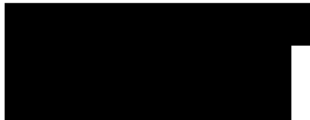


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201430891
Issue No.: 3005, 6005
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 Regulation [REDACTED] of the Office of Inspector General (OIG). Respondent did not appear at the hearing. The Notice of Disqualification Hearing (MAHS-827) sent to Respondent was not returned as undeliverable. 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 committed an Intentional Program Violation (IPV) and whether that Intentional Program Violation (IPV) caused Respondent to receive a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits and a \$ [REDACTED] over-issuance of Child Development and Care Program benefits from December 1, 2007 to May 31, 2008 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 16, 2007, Respondent submitted an application for Family Independence Program, Medical Assistance, Food Assistance Program, and Child Development and Care Program benefits. Respondent's benefit group consisted of herself and her 2 year old child.

2. On December 7, 2007, Respondent attended the required interview with her DHS case worker. Respondent was approved for expedited Food Assistance Program benefits and Medical Assistance benefits.
3. On January 22, 2008, Respondent's DHS case worker documented that Respondent JET attendance was verified and Family Independence Program benefits were approved beginning January 1, 2008.
4. On March 20, 2008, JET worker Chamseddine recorded a meeting with Respondent. (Page 22) The notes indicate Respondent was participating in required activities and did not have daycare yet.
5. On March 21, 2008, Claimant was approved for Child Development and Care Program benefits between December 9, 2007 and April 12, 2008. (Page 25)
6. On April 25, 2008, JET worker Chamseddine recorded Respondent had not been providing job search forms.
7. On May 7, 2008, JET worker Chamseddine requested a triage based on Respondent not attending JET.
8. On May 29, 2014, Respondent participated in a triage meeting. The DHS case worker allowed Respondent to sign a First Noncompliance Letter (DHS-754) and return to participation in the JET program. (Page 20)
9. On March 7, 2014, the Department's OIG filed a disqualification hearing request.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers

the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

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 she knew would result in receiving assistance she was not eligible for.

In this case, the Department alleges that Claimant committed an Intentional Program Violation (IPV) by misrepresenting the circumstances of eligibility and not complying with the JET program between December 2007 and May 2008. In accordance with Bridges Eligibility Manual (BEM) 233A Respondent was required to participate in the JET program as a requirement to receive Family Independence Program benefits. Bridges Eligibility Manual (BEM) 233B Failure to Meet Employment Requirements: FAP explains that receipt of FAP benefits is not dependent on participation in employment and/or self-sufficiency related activities. Respondent's failure to meet all of her JET participation requirements WOULD NOT make her ineligible for FAP benefits.

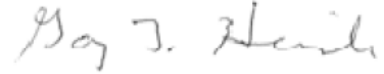
Respondent was approved for Child Development and Care Program benefits with JET participation as her need reason. A failure to meet all of her JET participation requirements WOULD NOT make her ineligible for Child Development and Care Program benefits.

Additionally BAM 720 (cited above) defines an Intentional Program Violation (IPV) as being when a client intentionally fails to report information **or** intentionally gives incomplete or inaccurate information. An Intentional Program Violation (IPV) requires proof of a fraudulent act or omission. Respondent's actions in this case do not meet the definition of an 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 NOT established by clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV)

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 2, 2014

Date Mailed: September 2, 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:

