

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 14-011919
Issue No.: 3001
Case No.: ██████████
Hearing Date: October 13, 2014
County: WAYNE-DISTRICT 15

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Assistance Payment Supervisor.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On March 3, 2014, an administrative hearing was held with respect to a suspected IPV by Claimant of the FAP and an overissuance (OI) of FAP benefits.
2. The Hearing Decision from the hearing held on March 3, 2014, found that there was clear and convincing evidence that Claimant had committed an IPV of the FAP and that she received an OI of FAP benefits in the amount of \$534.95. (Exhibit 4).
3. The Hearing Decision also ordered that Claimant be disqualified from FAP for a period of 12 months. (Exhibit 4)

4. On March 20, 2014, the Department sent Claimant an Intentional Program Violation Notice informing her that based on the decision of the administrative law judge in the IPV hearing, she was disqualified from FAP for 12 months and that she would be ineligible to receive FAP benefits from April 1, 2014 to March 31, 2015. (Exhibit 2)
5. On May 1, 2014, the Department sent Claimant a Notice of Balance Due, informing her that due to an overissuance of the FAP that was not repaid while her case was active, she had a balance of \$534.95 that must be repaid. (Exhibit 3)
6. On or around August 22, 2014, Claimant submitted an application for FAP benefits.
7. On August 22, 2014, the Department sent Claimant a Notice of Case Action informing her that her FAP application had been denied on the basis that she is subject to an Intentional Program Violation (IPV) disqualification and ineligible for FAP benefits. (Exhibit 1)
8. On September 16, 2014, Claimant submitted a hearing request disputing the Department's actions.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

Additionally, a disqualified person is one who is ineligible for FAP benefits due to a failure to meet an eligibility factor. Individuals may be disqualified from receiving FAP benefits based on an intentional program violation. BEM 212 (July 2014), p. 8. A court or hearing decision that finds a client committed IPV disqualifies that client from receiving program benefits. BAM 720 (May 2014), p. 15. A disqualified recipient remains a member of an active group as long as he lives with them, and other eligible group members may continue to receive benefits. BAM 720, p. 16. Clients who commit an IPV are disqualified for a standard disqualification period of one year for the first IPV. BAM 720, p. 16.

In this case, the Department presented sufficient evidence to establish that Claimant was subject to an intentional program violation disqualification at the time that she submitted her application for FAP benefits. Although Claimant testified that she was never notified of the IPV hearing and disputed the determination that she had committed an IPV and should be subject to disqualification, the merits of the IPV hearing were not addressed. Claimant was informed that she was entitled to submit a new application for FAP benefits in March 2015, at the conclusion of the 12 month FAP disqualification.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Claimant's FAP application on the basis that she is subject to an IPV disqualification and ineligible for FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Zainab Baydoun

Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/16/2014**

Date Mailed: **10/16/2014**

ZB / cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;

- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]