

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

IN THE MATTER OF:



Reg. No.: 14-006263
Issue No.: 3005
Case No.: [REDACTED]
Hearing Date: October 28, 2014
County: HILLSDALE

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

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 October 28, 2014, from Lansing, Michigan. The Department was represented by Regulation Agent Picca 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 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 from December 1, 2010 to August 31, 2011 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. Respondent was employed at Nyloncraft from November 2006 until August 2012.
2. On August 4, 2010, Respondent gave birth to her third child.
3. On August 9, 2010, Respondent began a period of employer sanctioned maternity leave.
4. On September 16, 2010, Respondent was already receiving Medical Assistance and submitted a Food Assistance Program application. On the application

disclosed that she was on leave from her employer and was receiving some form of short term disability benefits.

5. On August 22, 2011, Respondent was sent a Wage Match Client Notice (DHS-4638).
6. The Department's OIG filed a disqualification hearing request on July 12, 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.

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.

The evidence in this record shows that Respondent was issued \$ [REDACTED] per month of Food Assistance Program for October and November 2010 but her benefits were

reduced to \$ [REDACTED] per month beginning December 2010. The Department provided no explanation for this change. This change in benefits means there was a change in Respondent's circumstances which the Department became aware of in time to affect her December 2010 issuance.

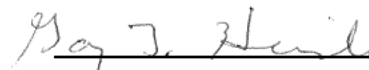
The Department submitted income verification from [REDACTED] from September 1, 2010 to August 31, 2011. That evidence is ambiguous. It appears to lists that Respondent received a check on September 16, 2010, September 30, 2010, October 14, 2010, October 21, 2010, and two checks on October 28, 2010. It also appears to report that Respondent was on medical leave from August 9, 2010 to September 30, 2010.

The Food Assistance Program over-issuance budgets submitted into evidence state that the over-issuance resulted from "unreported earnings from [REDACTED] at [REDACTED] 10/14/10-8/31/11." Does that mean she reported the earnings from September 16, 2010 until October 14, 2010?

The evidence in this case is not clear and convincing on the question of whether Respondent "intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility." This evidence makes a far more compelling impression that any over-issuance that resulted was caused by agency error.

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).



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

Date Signed: **11/12/2014**

Date Mailed: **11/12/2014**

GFH/hj

NOTICE: The law provides that within 30 days of receipt of the above Hearing Decision, the Respondent may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County.

cc: [REDACTED]

