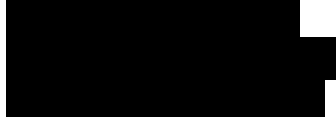


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-005449
Issue No.: 3005, 5005
Case No.: [REDACTED]
Hearing Date: August 13, 2014
County: Ottawa County DHS

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 **August 13, 2014**, from **Lansing**, Michigan. The Department was represented by [REDACTED], Regulation Agent of the Office of Inspector General (OIG). Participants on behalf of Respondent included herself.

ISSUES

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 June 1, 2010 to October 31, 2012 and a \$ [REDACTED] over-issuance of State Emergency Relief Program benefits between May 28, 2010 to September 28, 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. On May 10, 2010 Respondent submitted a Redetermination (DHS-1010) form for Medical Assistance and Food Assistance Program benefits. The application for re-determination showed Ahmed Saleh as a member of Respondent's household and father of Respondent's three children. It also stated there was no income for the household. However, Respondent also reported no shelter expense and reported that family was helping pay the bills. No verification of the family assistance was obtained and no amount of unearned income was included in the resulting Food Assistance Program financial eligibility budget.
2. On May 25, 2010, Respondent submitted an application for State Emergency Relief Program to pay her utilities. The application listed the five members of the

household and was marked as no income for the household. Respondent also reported no shelter expense.

3. On December 29, 2010, Respondent submitted an application for State Emergency Relief Program to pay her water/sewer or cooking gas. The application listed the five members of the household. Respondent also reported no shelter expense but reported \$ [REDACTED] of unearned income as family assistance paying the mortgage.
4. On April 22, 2011, Respondent submitted an application for State Emergency Relief Program to pay her water/sewer or cooking gas. The application listed the five members of the household and was marked as no income for the household.
5. On April 28, 2011, Respondent submitted an application for State Emergency Relief Program to pay her water/sewer or cooking gas. The application listed the five members of the household and was marked as no income for the household.
6. On May 10, 2011 Respondent submitted a Redetermination (DHS-1010) form for Medical Assistance and Food Assistance Program benefits. The application listed the five members of the household and was marked as no income for the household. In the comment section Respondent reported "we have no set income our families try to help out when they can."
7. On May 25, 2012 Respondent submitted a Redetermination (DHS-1010) form for Medical Assistance and Food Assistance Program benefits. The application listed the five members of the household and was marked as no income for the household.
8. The Department's OIG filed a disqualification hearing request on June 30, 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.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

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. The clear and convincing evidence standard, which is the most demanding standard applied in civil cases, is established where there is evidence so clear, direct and weighty and convincing that a conclusion can be drawn without hesitancy of the truth of the precise facts in issue. *Smith v Anonymous Joint Enterprise*, 487 Mich 102; 793 NW2d 533 (2010), reh den 488 Mich 860; 793 NW2d 559 (2010).

In this case the Department alleges that Respondent's household received income and committed an Intentional Program Violation (IPV) by intentionally failing to report the

income. As proof of the allegation the Department has submitted three years of Respondent's banking records. The Department asserts that all every deposit Respondent made during the asserted over-issuance period was unreported income and that total amount was used to calculate the alleged over-issuance amount.

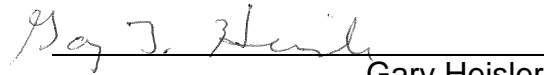
The evidence submitted by the Department shows that Respondent reported family assistance three separate times during the alleged over-issuance period. There is no evidence in the record showing that the Department obtained verification of any family assistance amounts or the details of the assistance.

There is not clear and convincing evidence in this record that Respondent intentionally failed to report income. In fact the evidence in this record shows that Respondent reported incomes during the alleged over-issuance period.

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). In fact the evidence shows that any over-issuance was caused by the Department's error in not obtaining specifics and verification of the family assistance Respondent reported.

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



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

Date Signed: **9/24/2014**

Date Mailed: **9/24/2014**

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:

