

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-009977
Issue No.: 3005
Case No.: [REDACTED]
Hearing Date: February 11, 2015
County: OTTAWA (DISTRICT 70)

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 February 11, 2015, from Lansing, Michigan. The Department was represented by [REDACTED], Regulation Agent of the Office of Inspector General (OIG). Participants on behalf of the Respondent included Jacqueline Jobin and her husband, [REDACTED].

ISSUES

1. Did the Department establish, by clear and convincing evidence, that the Respondent committed an Intentional Program Violation (IPV) and should therefore be disqualified from receiving benefits for Food Assistance Program (FAP)?

FINDINGS OF FACT

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

1. The Department's OIG filed a hearing request on August 28, 2014, to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. The OIG has requested that the Respondent be disqualified from receiving program benefits.
3. The Respondent was a recipient of FAP benefits issued by the Department.
4. The Respondent was aware of the responsibility to report all changes in household circumstances within 10 days to the Department.
5. The Respondent did not have an apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.

6. The Department's OIG indicates that the time period it is considering the fraud period is May 1, 2013 to September 30, 2013 (fraud period).
7. During the fraud period, the Respondent was issued \$ [REDACTED] in FAP benefits by the State of Michigan, and the Department alleges that Respondent was entitled to [REDACTED] in such benefits during this time period.
8. The Department alleges that the Respondent received an OI in FAP benefits in the amount of \$ [REDACTED]
9. This was Respondent's first alleged IPV.
10. A notice of hearing was mailed to Respondent at the last known address and was returned by the US Post Office as undeliverable.

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 Department's OIG requests IPV hearings for the following cases:

- FAP trafficking OIs that are not forwarded to the prosecutor.
- 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.

BAM 720 (2013), p.10.

Intentional Program Violation

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.

BAM 720, p. 1.

An IPV is also suspected for a client who is alleged to have trafficked FAP benefits. BAM 720, p. 1.

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. BAM 720, p. 1, (emphasis in original); see also 7 CFR 273(e)(6). Clear and convincing evidence is evidence sufficient to result in a clear and firm belief that the proposition is true. See M Civ JI 8.01.

In this case, the Respondents assert that they submitted documents to verify the Respondent's husband's unemployment. The Respondent had answered that there was no change in circumstances to report in July of 2013, because they had reported to their caseworker that the Respondent's husband was getting unemployment in March of 2013 and he was continuing to get unemployment. The Respondent testified that they had to submit verification of the amount of unemployment they were receiving. Shortly after that, they had a new caseworker. The Department could not confirm or deny that there had been a change in case workers. The Respondents further contest the amount considered as unearned income, as the Respondent's husband has a child support obligation. A review of the OI budgets in evidence support that the Respondent's husband was not afforded a child support expense.

The Department argued that the Respondents made a false statement when answering whether or not their gross earned income had changed by more than \$100.00 of what was previously budgeted. It was at this point that the Respondent's husband expressed

he was confused because he did not know if his child support expense had been counted in the income figure. Based on the record as a whole and the testimony of the Respondents at the hearing, this Administrative Law Judge concluded that the Department has not met its burden of proving, by a clear and convincing standard, that the Respondent deliberately made a false statement for the purpose of continuing to receive FAP benefits.

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, if any, concludes that:

The Department has not established by clear and convincing evidence that Respondent committed an IPV. As such, no disqualification penalty is ordered.

Susanne E. Harris

Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/17/2015**

Date Mailed: **2/17/2015**

SEH/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]