

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-011460
Issue No.: 3005
Case No.: [REDACTED]
Hearing Date: January 27, 2015
County: JACKSON

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 January 27, 2015 from Lansing, Michigan. Respondent appeared and testified. The Department was represented by Regulation Agent [REDACTED] of the Office of Inspector General (OIG). The record contains no evidence of a September 2012 State Emergency Relief Program application or what was used to calculate the September 2012 SER payment. The evidence is insufficient to establish an SER Intentional Program Violation (IPV) and the SER portion of this case is DISMISSED.

ISSUES

Whether Respondent committed a 2nd Intentional Program Violation (IPV) of the Food Assistance Program and whether that Intentional Program Violation (IPV) caused Respondent to receive a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits from July 1, 2011 to May 31, 2013 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 an ongoing recipient of Food Assistance Program benefits. Kenneth Richie Jr. was a member of Respondent's benefit group.
2. On December 29, 2010, Respondent and her ex-husband, [REDACTED] entered into a real estate purchase by signing a land contract. The contract represents Respondent and [REDACTED] as husband and wife who live together at the purchased residence.

3. On February 1, 2011, Respondent submitted a Redetermination (DHS-1010) which misrepresented her residence and did not indicate Kenneth Richie Sr. was a member of the household.
4. Respondent received Supplemental Security Income (SSI) benefits based on disability during the over-issuance period. Respondent's participation and interaction during this hearing show she has no mental impairment that would limit her understanding or ability to fulfill reporting requirements.
5. Respondent committed an Intentional Program Violation (IPV) by intentionally failing to report that Kenneth Richie Sr. was a member of her household and assistance benefit group.
6. In accordance with Bridges Administration Manual (BAM) 720 July 1, 2011 to May 31, 2013 has correctly been determined as the Food Assistance Program over-issuance period associated with this ongoing Intentional Program Violation (IPV).
7. From July 1, 2011 to May 31, 2013, Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program benefits.
8. This is Respondent's 2nd Food Assistance Program Intentional Program Violation (IPV).
9. There is no evidence in the record showing a September 2012, State Emergency Relief Program application.
10. The Department's OIG filed a disqualification hearing request on September 19, 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.

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 amount for the FIP, SDA, CDC, MA and FAP programs combined is \$500 or more, **or**

The total OI amount is less than \$500, **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. In other words, the Department must show that the Respondent engaged in a fraudulent act or omission they knew would result in receiving assistance they were not eligible for.

In this case, the Department presented an affidavit signed by Kenneth Richie Sr. which stated he moved into the residence one month after signing the contract. The record also contains several Assistance Applications (DHS-1171) and

Redeterminations (DHS-1010) that Respondent submitted to the Department prior to, and during, the alleged OI period. The evidence is sufficient to establish that Respondent certified knowledge of reporting requirements as well as the conditions that constitute fraud/IPV and trafficking and the potential consequences.

This constitutes clear and convincing evidence that Respondent was aware of the responsibility to report changes and that they intentionally failed to report the income with knowledge that doing so would reduce their benefits. Therefore, the Department has established that Respondent committed an IPV.

Over-issuance Period

BAM 720 states that the over-issuance period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy or 72 months (6 years) before the date it was referred to the RS, whichever is later.

To determine the first month of the over-issuance period (for over-issuances 11/97 or later) Bridges allows time for:

The client reporting period, per BAM 105.

The full standard of promptness (SOP) for change processing, per BAM 220.

The full negative action suspense period.

The over-issuance period ends the month (or pay period for CDC) before the benefit is corrected.

Over-issuance Amount

BAM 720 states the over-issuance amount is the benefit amount the client actually received minus the amount the client was actually eligible to receive. The Department presented income records for Kenneth Richie Sr. and over-issuance budgets for every month during the ongoing over-issuance period.

Disqualification

BAM 720 states that a court or hearing decision that finds a client committed an IPV disqualifies that client from receiving program benefits. 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.

Clients who commit an IPV are disqualified for a standard disqualification period of one year for the first IPV, two years for the second IPV and a lifetime disqualification for the third IPV.

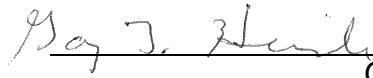
DECISION AND ORDER

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 established by clear and convincing evidence that Respondent committed a 2nd

Intentional Program Violation (IPV) of the Food Assistance Program which resulted in a \$ [REDACTED] over-issuance of Food Assistance Program benefits that the Department is entitled to recoup.

This is Respondent's 2nd Intentional Program Violation (IPV) of the Food Assistance Program and the Department may disqualify Respondent from receiving Food Assistance Program benefits in accordance with Department of Human Services Bridges Administration Manual (BAM) 720.

It is ORDERED that the actions of the Department of Human Services, regarding the Food Assistance Program Intentional Program Violation (IPV) in this matter, are **UPHELD**.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/24/2015**

Date Mailed: **2/24/2015**

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]