

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201427810
Issue No.: 1005, 3005
Case No.: [REDACTED]
Hearing Date: August 26, 2014
County: Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

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 26, 2014 from Lansing, Michigan. The Department was represented by Regulation Agent Carneal 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 not 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 Family Independence Program benefits from September 1, 2011 to October 31, 2011 and a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits from November 1, 2010 to September 30, 2012 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 signed the affidavits in the October 18, 2010 Assistance Application (DHS-1171), July 15, 2011 Assistance Application (DHS-1171), July 29, 2011 Assistance Application (DHS-1171), and the July 30, 2012 Assistance Application (DHS-1171) certifying that she was aware of reporting requirements as well as the conditions that constitute fraud/IPV and trafficking and the potential consequences.

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2. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
3. Respondent committed an Intentional Program Violation (IPV) by falsely representing that her daughter, Talia Thomas was a full time member of Respondent's household on all the applications listed above.
4. In accordance with Bridges Administration Manual (BAM) 720 November 1, 2010 to September 30, 2012 has correctly been determined as the Food Assistance Program over-issuance period and September 1, 2011 to October 31, 2011 has correctly been determined as the Family Independence Program over-issuance period associated with this continuous Intentional Program Violation (IPV).
5. During the Food Assistance Program over-issuance period Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program benefits.
6. During the Family Independence Program over-issuance period Respondent received a \$ [REDACTED] over-issuance of Family Independence Program benefits.
7. This is Respondent's 1st Intentional Program Violation (IPV) of the Food Assistance Program and Family Independence Program.
8. The Department's OIG filed a disqualification hearing request on February 20, 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260; MCL 400.10; the Social Welfare Act, MCL 400.1-.119b; and Mich Admin Code, R 400.3101 to .3131.

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.

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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. In other words, the Department must show that the Respondent engaged in a fraudulent act or omission which s/he knew would result in receiving assistance s/he was not eligible for.

In this case, the Department presented four Assistance Applications (DHS-1171) that Respondent submitted to the Department prior to, and during, the OI period. These applications establish that Respondent was aware of reporting requirements as well as the conditions that constitute fraud/IPV and trafficking and the potential consequences.

All four applications were fraudulent because Talia Thomas was not a full time member of Respondent's household. 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.

In this case, the Department submitted evidence showing that Respondent submitted a fraudulent application on October 18, 2010. Applying the requirements of BAM 720, the over-issuance period began November 1, 2010. The over-issuance period continued until September 30, 2012 because Respondent continued to fraudulently represent that Talia Thomas was a full time member of her household.

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 over-issuance budgets which showed that Respondent received a \$2,595 over-issuance of Food Assistance Program benefits and a \$226 over-issuance of Family Independence Program benefits.

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

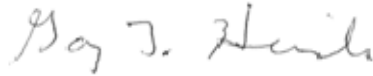
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department has established by clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV) which resulted in a \$ [REDACTED] over-issuance of Food Assistance Program benefits and a \$ [REDACTED] over-issuance of Family Independence Program benefits that the Department is entitled to recoup.

This is Respondent's 1st Intentional Program Violation (IPV) of the Food Assistance Program and Family Independence Program and the Department may disqualify Respondent from receiving Food Assistance Program and Family Independence

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Program benefits in accordance with Department of Human Services Bridges Administration Manual (BAM) 720 (2013).

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.



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

Date Signed: October 2, 2014

Date Mailed: October 2, 2014

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the Respondent may appeal it to the Circuit Court for the County in which he/she lives.

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cc:

