

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

IN THE MATTER OF:



Reg. No.: 201431772
Issue No.: 1005, 3005
Case No.: [REDACTED]
Hearing Date: July 8, 2014
County: Wayne County DHS #31

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 July 8, 2014 from Lansing, Michigan. The Department was represented by Regulation Agent [REDACTED] 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 and a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits from January 1, 2005 to August 1, 2005 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 Family Independence Program and Food Assistance Program benefits.
2. On January 14, 2005, Respondent began receiving payments from the Department as a registered day care provider.
3. On April 9, 2005, Respondent received the last Food Assistance Program benefits until January 2008.

4. On November 2, 2005, Claimant received her last payment from the Department as a registered day care provider.
5. On December 15, 2005, Respondent submitted an application for Medical Assistance benefits. On the application Respondent indicated she was a self-employed day care provider.
6. On March 14, 2014, the Department's OIG filed a disqualification hearing request.

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.

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.

In this case, the Department presented evidence that Respondent was an authorized day care provider employed by the Department. Bridges Administration Manual (BAM) 705 Agency Error Over-Issuances provides:

Definition

All Programs

An **agency error** is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) staff or department processes. Some examples are:

Available information was not used or was used incorrectly.

Policy was misapplied.

Action by local or central office staff was delayed.

Computer errors occurred.

Information was not shared between department divisions such as services staff.

Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

If unable to identify the type record it as an agency error.

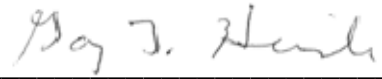
The evidence in this record shows that the over-issuances in this case were caused by agency error. There was no Intentional Program Violation (IPV).

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 NOT established by clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV).

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



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

Date Signed: September 2, 2014

Date Mailed: September 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.

GFH/hj

cc:

