



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 5, 2017
MAHS Docket No.: 16-014623
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

Upon the request for a hearing by the Department of Health and 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 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a telephone hearing was held on [REDACTED], from Detroit, Michigan. The Department was represented by [REDACTED], Regulation Agent of the Office of Inspector General (OIG).

Respondent did not appear at the hearing; and it was held in Respondent's absence pursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5).

ISSUES

1. Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

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 [REDACTED], 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 Respondent be disqualified from receiving program benefits.

3. Respondent was a recipient of FAP benefits issued by the Department.
4. The Respondent signed a Waiver of Disqualification Hearing on [REDACTED] received by the OIG on [REDACTED], indicating that she did not admit that the facts as presented are correct “However, I have chosen to sign this waiver request and understand that I will be disqualified from the program without a hearing”. (Exhibit B.)
5. The Department’s OIG indicates that the time period it is considering the fraud period is [REDACTED], through [REDACTED], (fraud period).
6. During the fraud period, Respondent was issued \$ [REDACTED] in FAP benefits by the State of Michigan; and the Department alleges that Respondent was entitled to \$0 in such benefits during this time period.
7. The Department alleges that Respondent received an OI in FAP benefits in the amount of \$ [REDACTED]
8. This was Respondent’s **second** IPV.
9. A Notice of Hearing was mailed to Respondent at the last known address and **was not** returned by the U.S. Post Office as undeliverable.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Adult Services Manual (ASM), and Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10; the Social Welfare Act, MCL 400.1-.119b; and Mich Admin Code, R 400.3001 to .3015.

In this case, the Respondent signed a Waiver of Disqualification hearing wherein she agreed that she did not admit that the facts as presented are correct “However, I have chosen to sign this waiver request and understand that I will be disqualified from the program without a hearing.” (Exhibit B.) The Department also presented evidence that this was Respondent’s 2nd IPV; the first IPV occurring [REDACTED]. Therefore, the Department did establish that this was Respondent’s second IPV. (Exhibit A, p. 46.)

Disqualification

A client who is found to have committed an IPV by a court or hearing decision is disqualified from receiving program benefits. BAM 720, p. 16. Clients are disqualified for ten years for an FAP IPV involving concurrent receipt of benefits, and, for all other

IPV cases involving FIP, FAP or SDA, for standard disqualification periods of one year for the first IPV, two years for the second IPV, and lifetime for the third IPV. BAM 720, p. 16. A disqualified recipient remains a member of an active group as long as he/she lives with them, and other eligible group members may continue to receive benefits. BAM 720, p. 16.

In this case, when the Respondent signed the Waiver of Disqualification Hearing, she conceded that an IPV occurred although she did not agree to the facts. Thus, the Department has established that it is entitled to a finding of disqualification of the Respondent to the IPV.

Overissuance

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OI. BAM 700, p. 1. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 720, p. 8.

In this case, the Department presented OI budgets in support of the establishment of an OI of FAP benefits, it also presented an FAP Benefit Issuance Summary demonstrating the Respondent was receiving FAP benefits during the period in question, [REDACTED] through [REDACTED]. (Exhibit A, pp. 37 and 39, 40.) Throughout the period, the Respondent was eligible for FAP; but her brother who lived with her and was an FAP group member, was not eligible for FAP benefits due to his two prior drug-related felony convictions. Thus, Respondent was entitled to receive FAP benefits based upon a group size of one, not two members. Thus, when Respondent's brother was removed from the FAP group, Respondent's FAP benefits were reduced accordingly, causing the OI. See Overissuance Summary, (Exhibit A. p. 43).

The Department presented FAP OI budgets beginning with [REDACTED]. In that month, the Respondent received FAP in the amount of \$ [REDACTED] which was a partial month's benefits based upon the application date, but was only entitled to \$ [REDACTED] resulting in an OI of \$ [REDACTED]. The OI FAP budget for [REDACTED] was reviewed and is correct. (Exhibit A, p. 44.) The FAP benefit OI budgets for the months of [REDACTED] through [REDACTED] were all the same budgets; the only thing that changed was the group size, which reduced the benefits. The correct income, rent, heat and standard deduction were applied; but based upon a group size of one rather than two, the correct FAP amount was \$ [REDACTED] and the Respondent was issued \$ [REDACTED] resulting in an OI for each of these months of \$ [REDACTED]. (Exhibit A, p. 45.) The budgets for [REDACTED] through [REDACTED] were reviewed and are correct.

The FAP budgets for [REDACTED], through [REDACTED], were also reviewed; during this period, the FAP group had no income so the Respondent was entitled to receive the maximum FAP benefits for one person in the amount of \$ [REDACTED]. RFT 260 (October 1, 2015), p. 1. The Respondent had been receiving \$ [REDACTED] based upon a group size of two members; when the group is reduced, an OI of \$ [REDACTED] for these months occurs. (Exhibit A, p. 43), [REDACTED]).

Based upon the foregoing, the Department has established, based upon the evidence presented, that Respondent received an OI in the amount of \$ [REDACTED] of 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:

1. The Department **has** established by clear and convincing evidence that Respondent committed an IPV.
2. Respondent **did** receive an OI of FAP benefits in the amount of \$ [REDACTED]

The Department is ORDERED to initiate recoupment/collection procedures for the amount of \$ [REDACTED] in accordance with Department policy.

It is FURTHER ORDERED that Respondent be disqualified from receiving FAP for a period of **24 months**.

LMF/jaf



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

Petitioner

[REDACTED]

Respondent

[REDACTED]

[REDACTED]