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

IN THE MATTER OF:

[redacted]

Reg. No.: 2010-47013
Issue No.: 3055; 3020
Case No.: [redacted]
Hearing Date: January 4, 2012
County: Genesee County

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department of Human Services' (Department) request for a hearing. After due notice, a telephone hearing was held on January 4, 2012 from Detroit, Michigan. The Department was represented by [redacted] of the Office of Inspector General.

☐ Participants on behalf of Respondent included:

☒ 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 400.3187(5).

ISSUES

Did the Respondent commit an Intentional Program Violation (IPV)?

Did the Respondent receive an overissuance (OI) of ☐ Family Independence Program (FIP) ☒ Food Assistance Program (FAP) ☐ State Disability Assistance (SDA) ☐ Child Development and Care (CDC) 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 Office of Inspector General (OIG) filed a hearing request to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.

2. The OIG ☒ has ☐ has not requested that Respondent be disqualified from receiving program benefits.

3. Respondent was a recipient of ☐ FIP ☒ FAP ☐ SDA ☐ CDC benefits during the period of June 1, 2007, through July 31, 2007.

4. The Office of Inspector General indicates that the time period they are considering the fraud period is June 1, 2007 through July 31, 2007.

5. During the alleged fraud period, the Respondent was issued $1,236.00 in ☐ FIP ☒ FAP ☐ SDA ☐ CDC benefits from the State of Michigan.

6. The Respondent was entitled to $0.00 in ☐ FIP ☒ FAP ☐ SDA ☐ CDC during this time period.

7. As a result, Respondent ☒ did ☐ did not receive an OI in the amount of $1,236.00 under the ☐ FIP ☒ FAP ☐ SDA ☐ CDC program.

8. The Department ☐ has ☒ has not established that Respondent committed an IPV.

9. A notice of disqualification hearing was mailed to Respondent at the last known address and ☐ was ☒ was not returned by the US Post Office as undeliverable.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

☐ The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq*. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq*., and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

☒ The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq* ., and 1999 AC, Rule 400.3001 through Rule 400.3015.

☐ The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq*., and 2000 AACS, Rule 400.3151 through Rule 400.3180.

☐ The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM 700.

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 their reporting responsibilities.

IPV is suspected when there is 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.

The department's Office of Inspector General processes intentional program hearings for overissuance referred to them for investigation. The Office of Inspector General represents the department during the hearing process. The Office of Inspector General requests intentional program hearings for cases when:

- benefit overissuance are not forwarded to the prosecutor.
- prosecution of welfare fraud is declined by the prosecutor for a reason other than lack of evidence, and
- the total overissuance amount is $1000 or more, or
- the total overissuance amount is less than $1000, and
    - the group has a previous intentional program violation, or

- the alleged IPV involves FAP trafficking, or
- the alleged fraud involves concurrent receipt of assistance,
- the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an intentional program violation disqualifies that client from receiving program benefits. A disqualified recipient remains a member of an active group as long as he lives with them. Other eligible group members may continue to receive benefits. BAM 720.

Clients that commit an intentional program violation are disqualified for a standard disqualification period except when a court orders a different period. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifetime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720.

In the present case, notes submitted by Christopher Fechter, OIG agent, dated February 16, 2010, (p. 3 of evidence) indicate that Respondent stated she did not intend to defraud, and that she did call the Department to report her husband's employment even before the job started. No testimony to the contrary was presented at the hearing.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Respondent ☐ did ☒ did not commit an IPV and ☒ did ☐ did not receive an overissuance of program benefits in the amount of $1,236.00 from the following program(s) ☐ FIP ☒ FAP ☐ SDA ☐ CDC.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Respondent ☐ did ☒ did not commit an IPV with regard to the ☐ FIP ☒ FAP ☐ SDA ☐ CDC program and ☒ did ☐ did not receive overissuances in program benefits.

☐ The Department is ORDERED to delete the OI and cease any recoupment action.

☒ The Department is ORDERED to initiate recoupment procedures for the amount of $ 1,236.00 in accordance with Department policy.

☐ The Department is ORDERED to reduce the OI to for the period in accordance with Department policy.

Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 1/19/12

Date Mailed: 1/19/12

NOTICE: The law provides that within 60 days from the mailing date of the above hearing Decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearings
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

SCB/sm

cc: [redacted]