

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

IN THE MATTER OF:



Reg. No.: 201152614
Issue No.: 3000
Case No.: [REDACTED]
Hearing Date: October 26, 2011
County: Wayne County DHS (41)

ADMINISTRATIVE LAW JUDGE: Andrea J. Bradley

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 October 26, 2011, from Detroit, Michigan. The Department was represented by [REDACTED] of the Office of Inspector General (OIG).

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

1. Did Respondent receive an overissuance (OI) of

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP) | <input checked="" type="checkbox"/> Food Assistance Program (FAP) |
| <input type="checkbox"/> State Disability Assistance (SDA) | <input type="checkbox"/> Child Development and Care (CDC) |

benefits that the Department is entitled to recoup?

2. Did Respondent commit an Intentional Program Violation (IPV)?

3. Should Respondent be disqualified from receiving

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP) | <input checked="" type="checkbox"/> Food Assistance Program (FAP) |
| <input type="checkbox"/> State Disability Assistance (SDA) | <input type="checkbox"/> Child Development and Care (CDC)? |

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 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 the alleged OI and IPV.
4. Respondent was was not aware of the responsibility to report changes in household income to the Department.
5. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. The Department's OIG indicates that the time period they are considering the fraud period is May 1, 2006 through June 30, 2006 and October 1, 2006 through November 30, 2006.
7. During the alleged fraud period, Respondent was issued \$\$1,315.00 in FIP FAP SDA CDC benefits from the State of Michigan.
8. Respondent was entitled to \$42.00 in FIP FAP SDA CDC during this time period.
9. Respondent did did not receive an OI in the amount of \$942.00 under the FIP FAP SDA CDC program.
10. The Department has has not established that Respondent committed an IPV.
11. This was Respondent's first second third IPV.
12. 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, the Department must attempt to recoup the 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 OIG requests IPV hearings for cases when:

- benefit overissuances 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 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. Other eligible group members may continue to receive benefits. BAM 720.

Clients who commit an IPV 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.

Additionally, the OIG agent testified that recoupment of a \$1,315.00 OI for FAP benefits is being sought based on the Respondent's failure to report earned income that was received on an episodal basis due to her work with a temporary employment service. There was no clear and convincing evidence that the Respondent had the requisite intent to commit an Intentional Program Violation. The OIG agent presented credible evidence to establish that the Respondent began work in March of 2006. Allowing time for notification of changes and the Department's standard of promptness, the OIG agent established the FAP OI period due to unreported income as being May 1, 2006 through June 30, 2006. And again, the OIG agent established that, on a separate occasion, the Respondent began work on September 1, 2006. Allowing for the same notification and standard of promptness period, the appropriate FAP OI period is November 1, 2006 through November 30, 2006.

The evidence and testimony established that for the FAP OI periods set forth above, the Respondent received \$942.00 in FAP program benefits. The Respondent was lawfully entitled to receive \$42.00. Based on the above, the OIG agent established that the Respondent received an OI in the amount of \$900.00 for which the Department is

entitled to recoup, however, it has not been established that the Respondent committed an IPV

DECISION AND ORDER RELATED TO FAP

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, concludes with respect to the FAP program that:

1. Respondent did did not commit an IPV.
2. Respondent did did not receive an OI of program benefits in the amount of \$900.00 from the following program(s) FIP FAP SDA CDC.

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 \$900.00 in accordance with Department policy.

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

It is FURTHER ORDERED that Respondent be disqualified from

- FIP FAP SDA CDC for a period of
- 12 months. 24 months. lifetime.

ORDER OF DISMISSAL RELATED TO FIP AND CDC

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, MCL 400.43 (a), Mich Admin Code, R 400.941 and MCL 24.201, *et seq.*, upon the Office of Inspector General's (OIG) request for Waiver of Disqualification Hearing. A hearing was scheduled for October 26, 2011 with respect to the Family Independence Program and Child Day Care Program

Subsequent to the scheduling of the hearing and prior to the hearing date, the Notice of Hearing and accompanying documents that were mailed to the Respondent at the last known address and which constituted due notice were returned by the United States Postal Service as undeliverable.

Department policy dictates that when correspondence to the Respondent is returned as undeliverable, the hearing cannot proceed. BAM 725.

ACCORDINGLY, the Request for an Intentional Program Violation Hearing with respect to the Family Independence Program and Child Day Care Program is dismissed.



Andrea J. Bradley
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/7/11

Date Mailed: 12/7/11

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.

AJB/hw

cc:

