

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201215983  
Issue No.: 3055  
Case No.: [REDACTED]  
Hearing Date: April 26, 2012  
County: Kent County DHS

**ADMINISTRATIVE LAW JUDGE:** Corey A. Arendt

**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 April 26, 2012 from Lansing, Michigan. The Department was represented by [REDACTED] of the Office of Inspector General (OIG). [REDACTED] (Respondent) appeared in person and provided testimony.

**ISSUES**

1. Did Respondent receive an overissuance (OI) of

- |   |   |
|---|---|
| <input checked="" 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 checked="" 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**

I find as material fact, based on the competent, material, and substantial evidence on the whole record:

1. The Department's OIG filed a hearing request on November 16, 2011 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 April 1, 2005 through December 31, 2005.
4. Respondent  was  was not aware of the responsibility to report all changes within 10 days.
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 April 1, 2005 through December 31, 2005.
7. On June 9, 2005, the Respondent completed a FIA-1171 claiming her son as a group member and sought benefits on his behalf without listing his RSDI income.
8. From April 1, 2005 through December 31, 2005, the State of Michigan issued the Respondent [REDACTED] in FAP benefits and [REDACTED] in FIP benefits.
9. From April 1, 2005 through December 31, 2005, the Respondent was entitled to [REDACTED] in FAP benefits and [REDACTED] in FIP benefits.
10. Respondent did receive an OI in the amount of [REDACTED] under the FAP program and [REDACTED] under the FIP program.
11. The Department  has  has not established that Respondent committed an IPV.
12. This was Respondent's  first  second  third IPV.
13. 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 FAP (formerly known as the Food Stamp (FS) program) was 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the BAM, BEM and the BRM.

In the present matter, the Department requested a hearing to establish an OI of FAP and FIP benefits, claiming that the OI was a result of an IPV committed by Respondent.

Here, the OIG presented unequivocal evidence that Respondent did not report her son's RSDI income. The failure of the Respondent to notify the Department lead to an OI of FAP and FIP benefits as the Department was unable to properly determine and budget the Respondent's eligibility for FAP and FIP benefits.

When a client or group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700, p 1. A suspected IPV is defined as an over issuance where:

- 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. [BAM 720, p 1.]

An IPV is suspected by the Department when a client intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing a reduction of, program eligibility or benefits. BAM 720, p 1. In bringing an

IPV action, the agency carries the burden of establishing the violation with clear and convincing evidence. BAM 720, p 1.

Based on the credible testimony and other evidence presented, I have concluded the OIG established, under the clear and convincing standard, that Respondent committed an IPV in this matter. As at no time did the Respondent inform the Department of her son's RSDI income as she knew she was required to do in order to receive additional benefits. This is the first time the Claimant has been found to have committed an intentional program violation.

**DECISION AND ORDER**

I find, based upon the above Findings of Fact and Conclusions of Law:

1. Respondent  did  did not commit an IPV
2. Respondent  did  did not receive an overissuance of program benefits in the amount of [REDACTED] in FAP benefits and [REDACTED] in FIP benefits.

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

It is FURTHER ORDERED that Respondent be disqualified from FAP and FIP for a period of 12 months.

/s/  
Corey A. Arendt  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: April 27, 2012

Date Mailed: April 27, 2012

**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.

CAA/cr

cc: [REDACTED]