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

IN THE MATTER OF:

- 1	Reg. No.: Issue No.: Case No.:
	Hearing Dat

ssue No.: 3055 Case No.:

2012-17452

Hearing Date: April 24, 2012
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

This matter is before the undersigned Administ rative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Departm ent of Human Servic es' (Department) request for a nearing. After due notice, a telephone hearing—was held on Tuesday, April 24, 2012, from Lansing, Michigan. The Department was represented by of the Office of Inspector General (OIG).				
Participants on behalf of Respondent included:				
☑ Respondent did not appear at the hearing and it was he ld in Respondent's a bsence bursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5).				
<u>ISSUES</u>				
Did Respondent receive an overissuance	(OI) of			
☐ Family Independence Program (FIP) ☐ State Disability Assistance (SDA) ☐ Medical Assistance (MA) benefits that the Department is entitled to	☐ Food Assistance Program (FAP) ☐ Child Development and Care (CDC) recoup?			

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

3.	Should Respondent be disqualified from receiving
	☐ Family Independence Program (FIP)☐ State Disability Assistance (SDA)☐ Child Development and Care (CDC)?
	FINDINGS OF FACT
	e Administrative Law Judge, based on t he competent, material, and substantial dence on the whole record, finds as material fact:
1.	The Department's OIG filed a hearing r equest on November 22, 2011 to establis h an OI of benefits received by Responden t as a result of Res pondent having allegedly committed an IPV.
2	The OIG ⊠ has ☐ has not requested that Res pondent be disqualifie d from receiving program benefits.
3.	Respondent was a recipient of \square FIP \boxtimes FAP \square SDA \square CDC \square MA benefits during the period of November 1, 2010 through March 30, 2011.
	Respondent was was not aware of the responsibility to report chenges in increased income from her daycare provider income and unem ployment compensation benefits and her daughter's employment inco me from Pilot T ravelenters.
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 November 1, 2010 through March 30, 2011.
7.	During the alleged fraud period, Respondent was issued \$1,395 in ☐ FIP ☒ FAP ☐ SDA ☐ CDC ☐ MA benefits from the State of Michigan.
8.	Respondent was entitled to \$439 in $\ \ \Box$ FIP $\ \ \ \Box$ FAP $\ \ \ \Box$ SDA $\ \ \ \Box$ CDC $\ \ \Box$ MA during this time period.
9. I	Respondent 🔲 did 🗌 did not receive an OI in the amount of \$1,395 under the 🔲 FIP 🖂 FAP 🔲 SDA 🔲 CDC 🔲 MA program.
10. IP	The Department \boxtimes has \square has not established t hat Respondent committed an V.
11.	This was Respondent's ☐ first ☐ second ☒ third IPV.
12. wa	A notice of hearing was mailed to Respondent at the last known address and \square as \square was not returned by the US Post Office as undeliverable.

CONCLUSIONS OF LAW

Department policies are contained in the Br idges 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 W ork Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, et seq. The Department (formerly k nown 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 Assistanc e Program (FAP) [fo rmerly known as the Food Sta mp (FS) program] is establis hed by the Food St amp Act of 1977, as amend ed, and is implemented by the federal r egulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independenc e 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 20 00 AACS, Rule 400.3151 through Rule 400.3180.
☐ The Child Development and Care (CDC) program is establis hed by Titles IVA, IVE and XX of the Soc ial 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 Feder al Regulations, Parts 98 and 99. The Depart ment provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.
☐ The Medical Ass istance (MA) program is es tablished by the Title XIX of the Soc ial Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independ ence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MC L 400.105.
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 t o report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, and
- The client was clearly and co rrectly 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 sus pected when there is clear and convinc ing evidence that the client has intentionally withheld or misr epresented 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 overissuanc es 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 previ ous intentional program violation, or
 - the alleged IPV involves FAP trafficking, or
 - the alleged fraud involves c oncurrent receipt of assistance,
 - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an IP V disqualifies that client from receiving certain program benefits. A disqualified reci pient remains a member of an active group as long as he lives with them. Other eligib le group members may continue to receive benefits. BAM 720.

Clients who commit an IPV are disqualified for a standard di squalification period except when a court orders a different period, or except when the overissuance relates to MA. Refusal to repay will not cause denial of current or future MA if the client is otherwise eligible. BAM 710. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifet ime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720.

Additionally, the respondent failed to r eport her earned and unea rned income and her daughter's earned income to the depart ment, which resulted in her r eceiving an overissuance of FAP benefits of \$1,395 that the department is required to recoup.

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, concludes that:

1. Respondent ⊠ did ☐ did not commit an IPV.	
2. Respondent ⊠ did ☐ did not receive an OI of prog ram benefits in the amount \$1,395 from the following program(s) ☐ FIP ☒ FAP ☐ SDA ☐ CDC ☐ MA.	of
☐ The Dep artment is ORDE RED to d elete the OI and cease any recoupment action.	
☑ The Department is ORDERED t o initiate recoupment procedures for the amount of \$1,395 in accordance with Department policy.	nt
☐ The Department is ORDERED to reduce the OI to for the period , accordance with Department policy.	in
☑ It is FURTHER ORDERED that Respondent be disqualified from	
☐ FIP ☒ FAP ☐ SDA ☐ CDC for a period of ☐ 12 months. ☐ 24 months. ☒ lifetime.	
<u>/s/</u>	

Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 27, 2012

Date Mailed: April 27, 2012

NOTICE: The law pr ovides that within 30 days of receipt of the above Decision and Order, the Respondent may appeal it to the circuit court fo r the county in which he/she lives.

CGF/ds

