

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-17510
Issue Nos.: 2052, 3052
Case No.: [REDACTED]
Hearing Date: March 7, 2012
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Jan Leventer

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 March 7, 2012, from Detroit, Michigan. The Department was represented by [REDACTED]

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
 Medical Assistance (MA) Food Assistance Program (FAP)
benefits that the Department is entitled to recoup?
2. Did Respondent commit an Intentional Program Violation (IPV)?
3. Should Respondent be disqualified from receiving
 Medical Assistance (MA) Food Assistance Program (FAP)

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 January 27, 2012, to establish an OI of benefits received by Respondent as a result of Respondent having received concurrent program benefits and, as such, allegedly committed an IPV.
2. The OIG has has not requested that Respondent be disqualified from receiving FAP and MA benefits.
3. Respondent was a recipient of FAP and MA benefits during the period of December 1, 2009-August 1, 2010.
4. On the Assistance Application signed by Respondent on July 24, 2008, Respondent reported she intended to stay in Michigan.
5. Respondent was aware of the responsibility to report changes in her residence to the Department.
6. Respondent had no apparent physical or mental impairment that would limit her understanding or ability to fulfill the requirement.
7. Respondent began using FAP FIP benefits outside of the State of Michigan beginning December 1, 2009.
8. Respondent received Medicaid coverage for her four children in both Michigan and Texas during the alleged IPV period.
9. The OIG indicates that the time period they are considering the fraud period is December 1, 2009-August 1, 2010.
10. During the alleged fraud period, Respondent was issued \$7,203 in FAP and \$8,888.79 in MA benefits from the State of Michigan.
11. During the alleged fraud period, Respondent was issued \$N/A in FAP FIP benefits from the State of .
12. The Department has has not established that Respondent received concurrent FAP benefits and thus committed an IPV.
13. This is Respondent's first second third IPV.
14. 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 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.

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department administers MA pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT).

When a client group receives more benefits than they are entitled to receive, DHS 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 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 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 that 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, Michigan Electronic Benefit Transfer (EBT) purchase records show that Claimant made FAP purchases exclusively in the state of Texas for the entire alleged IPV period. Also, Texas records indicate Claimant received MA coverage in Texas during the alleged IPV period, concurrent with receipt of MA benefits from the State of Michigan. Based on this information, it is found and determined that in the alleged IPV period Respondent changed her address and failed to report the change to the Department within ten days after the change occurred.

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 IPV's of the FAP and MA programs.
 2. Respondent did did not receive an OI of program benefits in the amount of \$16,091.79 from the following program(s) FAP (\$7,203.00) MA (\$8,888.79).
- The Department is ORDERED to initiate recoupment procedures for the amount of \$16,091.79 in accordance with Department policy.

It is FURTHER ORDERED that Respondent be disqualified from

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



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 7, 2012

Date Mailed: March 7, 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.

JL/pf

cc:

