

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

**IN THE MATTER OF:**



Reg. No.: 20121853  
Issue No.: 3052  
Case No.:   
Hearing Date: April 18, 2012  
County: Genesee (06)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**HEARING DECISION FOR CONCURRENT BENEFITS**  
**INTENTIONAL PROGRAM VIOLATION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon request by the Department of Human Services (Department) for a hearing. After due notice, a telephone hearing was held on April 18, 2012 from Detroit, 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 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  
 Family Independence Program (FIP)     Food Assistance Program (FAP)  
 Medical Assistance Program (MA)  
benefits that the Department is entitled to recoup?
2. Did Respondent commit an Intentional Program Violation (IPV)?
3. Should Respondent be disqualified from receiving  
 Family Independence Program (FIP)     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 Office of Inspector General (OIG) filed a hearing request on September 27, 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 August 2010 through March 2011.
4. Respondent  was  was not aware of the responsibility to report changes of address and had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
5. In September 2010, Respondent began using FAP benefits issued by the State of Michigan in [REDACTED].
6. The OIG indicates that the time period it is considering the fraud period is September 2010 through March 2011.
7. During the alleged fraud period, the Respondent was issued \$1400 in  FIP  FAP  SDA  CDC benefits from the State of Michigan.
8. Respondent was entitled to \$0 in  FIP  FAP  SDA  CDC during this time period.
9. As a result, the OIG alleges that Respondent received an OI in the amount of \$1400 under the  FIP  FAP  SDA  CDC program.
10. The Department  has  has not established that Respondent committed an IPV.
11. 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 Medical Assistance (MA) program is established by the Title XIX of the Social 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 Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

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, or
- 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. BAM 720. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifetime for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720. Clients who commit an IPV are disqualified for a standard disqualification period except when a court orders a different period, or except when the overissuance relates to MA. BAM 710; BAM 720. A disqualified recipient remains a member of an active group as long as he lives with them, but other eligible group members may continue to receive benefits. BAM 720. Refusal to repay will not cause denial of current or future MA if the client is otherwise eligible. BAM 710.

Additionally, an IPV requires 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. In this case, the evidence showed that Respondent began using his Michigan FAP benefits in ██████ in September 2010. He stopped using his Michigan benefits in December 2010. He began receiving ██████ FAP benefits in March 2011. At the time the hearing summary was prepared, the Department indicated that there were \$400 in FAP benefits remaining on Respondent's EBT card. Under these facts, the Department has failed to present clear and convincing evidence that Respondent intended to defraud the Department. Thus, the Department did not act in accordance with Department policy when it pursued an IPV against Respondent and sought to disqualify Respondent for one year based on the IPV.

However, the Department is entitled to recoup an OI of benefits. BAM 700. At the hearing, the Department sought to recover an OI of \$1400 for FAP benefits issued by the State of Michigan to Respondent from September 2010 through March 2011 while Respondent resided in ██████. The OI period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy or 72 months before the date the OI was referred to the Recoupment Specialist, whichever is later. BAM 715; BAM 720. To determine the first month of the OI period, the Department must take into consideration (i) the client reporting period per BAM 105, (ii) the full standard of promptness for change processing per BAM 220, and (iii) the full negative action suspense period per BAM 220. BAM 715; BAM 720.

In this case, Respondent began using his Michigan FAP benefits in ██████ in September 2010. At the hearing, the Department acknowledged that the OI period began in November 2010. The Department agreed that, after removing the \$400 FAP benefit Respondent properly received in September and October 2010, the OI to Respondent would be reduced to \$1000.

**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 program benefits in the amount of \$1000 from the following program(s)  FAP  FIP  MA.

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 \$ \_\_\_\_\_ in accordance with Department policy.

The Department is ORDERED to reduce the OI to \$1000 for the period November 2010 to March 2011, and initiate recoupment procedures 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.  a lifetime.



**Alice C. Elkin**

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

Date Signed: April 24, 2012

Date Mailed: April 24, 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.

ACE/hw

cc:

