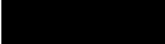


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

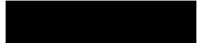
IN THE MATTER OF:



Reg. No.: 2012 33174
Issue No.: 1052
Case No.: 
Hearing Date: May 16, 2012
County: Saginaw County DHS (00)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 May 16, 2012, from Detroit, Michigan. The Department was represented by  of the Office of Inspector General (OIG).

Participants on behalf of Respondent included: the Respondent Phiedra Patton.

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)
 State Disability Assistance (SDA) Child Development and Care (CDC)
 Medical Assistance (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)
 State Disability Assistance (SDA) 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 on February 9, 2012 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 MA benefits during the period of February 2006, through August, 2007.
4. Respondent was was not aware of the responsibility to report income and assets.
5. The Respondent applied for FIP benefits on November 9, 2006 and did not report that she was the owner of a rental property located at [REDACTED], [REDACTED] Exhibit 2, page 22.
6. The Respondent brought eviction actions in her capacity as owner of the property located at 1002 McCoskry in Saginaw, Michigan. Exhibit 4 pages 27 – 29.
7. The Respondent has owned the property located at [REDACTED] since July 1, 2003. Exhibit 6.
8. The Respondent signed a DHS 3688, Shelter Verification Form indicating that she was the owner of the property at [REDACTED] on behalf of her tenant. Exhibit 9, page 42.
9. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
10. An Order of Probation in case # [REDACTED] dated [REDACTED], and was presented by the Claimant at the hearing. The order resulted from a plea to Breaking and Entering a Building with Intent. Claimant Exhibit 1.
11. The Department's OIG indicates that the time period they are considering the fraud period is February 1, 2006 through August 31, 2007.

12. During the alleged fraud period, Respondent was issued \$7,809 in FIP FAP SDA CDC MA benefits from the State of Michigan.
13. Respondent was entitled to \$0 in FIP FAP SDA CDC MA during this time period.
14. Respondent did did not receive an OI in the amount of \$7,809 under the FIP FAP SDA CDC MA program.
15. The Department has has not established that Respondent committed an IPV.
16. This was Respondent's first second third IPV.
17. A notice of 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.

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, 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 certain 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, 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, lifetime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720.

Additionally, the evidence presented by the OIG demonstrated that the Respondent was the legal owner of record of the property located at [REDACTED], Michigan. During the period the Respondent owned the property, she did not report that she owned the property, and did not list it as an asset when she completed a DHS application in November 2006, even though she had owned the property since 2003.

At the time of the Respondent's application in November 2006 the asset limit for FIP cash assistance was \$3,000. PEM 400 page 3. The evidence presented regarding the property indicates that the State Equalized Value in 2006 was \$9,503, and the property had an \$11,000 mortgage taken out on it in 2002. When it was purchased in 2000, the purchase price was \$37,564. On the basis of this information, it is determined that the Respondent did have and own an asset that was worth more than \$3,000 at the time she applied for cash assistance and clearly was required to disclose this asset. Because the asset was not reported, the Claimant received FIP benefits even though she was not entitled to receive them because she had an asset which exceeded the \$3000 asset limit. Based upon this evidence the Department has established that the Claimant received an overissuance of FIP benefits in the amount of \$7809. This decision was also influenced by the fact that the Respondent also did not report the rental income received from the property, was elusive regarding her ownership of the property and produced no documents or other written evidence regarding the ownership issues and any claimed arrangements she may have had with her brother.

As regards the Intentional Program Violation it is determined that the evidence establishes that the Claimant failed to disclose an asset, the rental property, that had been owned by her since 2003 and at no time reported the rental income. The Claimant also held herself out as the owner of the property by filing evictions of tenants as the owner and completing a DHS shelter verification as owner. This evidence establishes that her violation in receiving FIP benefits was intentional, as the OIG has established through clear and convincing evidence that the Respondent intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. BAM 720.

The Respondent presented an Order of Probation in case # [REDACTED] dated [REDACTED] and testified that this order of probation resulting from a plea to Breaking and Entering a Building with Intent, also relieved her from the overissuance and Intentional Program Violation involved in the instant matter. Respondent Exhibit 1. A review of the Order of Probation indicates that it is silent with regard to any further agreement made by the prosecutor as regards the Claimant's plea arrangement and the sentence of probation. The Order of Probation, as issued, is the final indication of the intention of the parties and the Respondent offered no other written evidence of the extent of the plea arrangement to corroborate her assertion that it released her from responsibility for the overissuance of FIP benefits and Intentional Program Violation in this case. Based on the evidence presented, it must be determined that any debt repayment due to an overissuance of FIP benefits, or agreement not to prosecute the Respondent for an intentional program violation was not excused or otherwise dismissed by the Order of Probation. Respondent Exhibit 1.

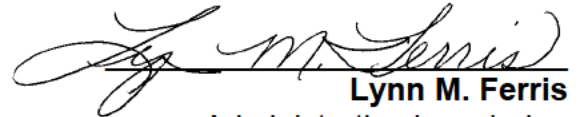
Based upon these facts, it is determined that the Respondent received an overissuance of FIP benefits as she failed to report as an asset the rental property which she owned and which asset exceeded the asset limit for FIP benefit entitlement. The failure and omission to report the asset is also deemed evidence of an Intentional Program Violation, as the Respondent had owned the property since 2003 and did not report her ownership when filing her FIP application even though she sought eviction as owner of the property and filed a shelter verification with the Department on behalf of one of her tenants.

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 \$7,809 from the following program(s) FIP FAP SDA CDC 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 \$7,809 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.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 31, 2012

Date Mailed: May 31, 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.

LMF/hw

cc:

