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

IN THE MA	TTER OF:	Reg. No: Issue No: Case No: Hearing Date: Genesee Coun	201236668 3055 April 25, 2012 ty DHS	
ADMINISTRATIVE LAW JUDGE: Kevin Scully				
HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION				
and MCL 40 hearing. A Lansing, Mi	is before the undersigned Administrative 20.37 upon the Department of Human Softer due notice, a telephone hearing chigan. The Department was represent eneral (OIG).	ervices' (Depart was he <u>ld on Ar</u>	ment) request for a o <u>ril</u> 25, 2012, from	
	dent did not appear at the hearing and it 7 CFR 273.16(e), Mich Admin Code R 4 ).			
	ISSUES			
1.	Did Respondent receive an overissuar Program (FIP), ⊠ Food Assistance I Assistance (SDA), ☐ Child Develope the Department is entitled to recoup?	Program (FAP),	☐ State Disability	
2.	Did Respondent commit an Intentional	Program Violation	on (IPV)?	
3.	Should Respondent be disqualification independence Program (FIP), State Disability Assistance (SDA), (CDC)?	od Assistance F	Program (FAP), 🗌	
FINDINGS OF FACT				
	istrative Law Judge, based on the co the whole record, finds as material fact:		al, and substantial	
1.	The Department's OIG filed a hearing request on February 29, 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 from receiving program benefits.	ed that Respond	lent be disqualified	

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3.	Respondent was a recipient of FIP FAP SDA CDC benefits during the period of December 1, 2009, through February 28, 2011.			
4.	Respondent $\boxtimes$ was $\square$ was not aware of the responsibility to completely report all income received by the benefit group.			
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 December 1, 2009, through February 28, 2011.			
7.	During the alleged fraud period, Respondent was issued in ☐ FIP ☐ FAP ☐ SDA ☐ CDC benefits from the State of Michigan.			
8.	Respondent was entitled to \$200 in $\hfill\Box$ FIP $\hfill \boxtimes$ FAP $\hfill \square$ SDA $\hfill \square$ CDC during this time period.			
9.	Respondent 🖂 did 🗌 did not receive an OI in the amount of the 🗌 FIP 🖂 FAP 🔲 SDA 🔲 CDC program.			
10.	The Department $\boxtimes$ has $\square$ has not established that Respondent committed an IPV.			
11.	This was Respondent's $\boxtimes$ first $\square$ second $\square$ third IPV.			
12.	A notice of disqualification hearing was mailed to Respondent at the last known address and $\square$ was $\boxtimes$ 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.				

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oxdot 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.

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 or more, or
- the total overissuance amount is less than
  - 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 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. 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.

### **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 $\boxtimes$ did $\square$ did not commit an IPV.		
2. Respondent ⊠ did ☐ did not receive an OI from the following program(s) ☐ FIP ☐		
The Department is ORDERED to initiate reco	pupment procedures for the amount of	
It is FURTHER ORDERED that Respondent be disqualified from ☐ FIP ☑ FAP ☐ SDA ☐ CDC for a period of ☑ 12 months. ☐ 24 months. ☐ lifetime.		
	/s/  Kevin Scully  Administrative Law Judge for Maura Corrigan, Director	
Date Signed: April 27, 2012	Department of Human Services	
<del> </del>		
Date Mailed: April 27, 2012		

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**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.

### KS/tb

