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

IN THE MATTER OF:

[redacted]

Reg. No.: 2012-55819
Issue Nos.: 3055, 6052
Case No.: [redacted]
Hearing Date: July 18, 2012
County: Wayne (82-43)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 July 18, 2012, from Detroit, Michigan. The Department was represented by [redacted] 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)
   ☐ State Disability Assistance (SDA)
   ☐ Medical Assistance (MA)
   ☒ Food Assistance Program (FAP)
   ☒ Child Development and Care (CDC)

   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 April 16, 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 January 1, 2006, through February 28, 2007.

4. Respondent ☒ was ☐ was not aware of the responsibility to report income and job loss.

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 as indicated above as the OI period - January 1, 2006, through February 28, 2007.

7. During the alleged fraud period, Respondent was issued $18,456 in ☐ FIP ☒ FAP ☐ SDA ☒ CDC ☐ MA benefits from the State of Michigan.

8. The Department's OIG alleges the Respondent was only entitled to $4,732 in ☐ FIP ☒ FAP ☐ SDA ☐ CDC ☐ MA during this time period.

9. The Department ☐ has ☒ has not established that Respondent committed an IPV.

10. 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 OI 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.

In the instant case, the OIG is asserting Respondent reported employment when she was, in fact, not employed. The OIG asserts that Respondent received an OI in the amount of $11,594 in CDC benefits during the period of January 1, 2006, through February 28, 2007. Further, he OIG asserts that Respondent received an OI in the

amount of $6,862 in FAP benefits during the period of January 1, 2006, through February 28, 2007.

The Department's OIG representative asserts that Respondent was not employed during the time period in question based upon the following:

1. Employment verifications appear questionable;
2. Address for the employer is a private residence;
3. Wage print shows less than $1 of earnings for the 3rd quarter of 2006.

The Respondent failed to appear and testify regarding the alleged IPV's asserted by the OIG. The Department has the burden of establishing an IPV, a disqualification and a recoupment of an OI. BAM 700; BAM 720.

In the instant case, the Department has failed to demonstrate by clear and convincing evidence that Respondent was not employed or that she misled the Department in an effort to receive benefits she was not entitled to receive. The verifications indicate that Respondent would receive a 1099 from her employer. The Department is relying on one quarter in 2006 to demonstrate the lack of employment. In addition, the Department submitted a copy of realty records showing the home of the employer was in foreclosure. While these documents may raise some questions regarding Respondent's employment, they fail to be clear and convincing evidence that Respondent was not employed.

Therefore, the Department has not proven an IPV or an OI of benefits has 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 an IPV.

2. Respondent ☐ did ☒ did not receive an OI of program benefits in the amount of $18,456 from the following program(s) ☐ FIP ☒ FAP ☐ SDA ☒ CDC ☐ MA.

☒ The Department is ORDERED to delete the OI and cease any recoupment action.

Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 19, 2012

Date Mailed: July 19, 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.

JWO/pf

cc: [redacted]