

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

**IN THE MATTER OF:**



Reg. No: 201255909  
Issue No: 3055, 4060  
Case No: [REDACTED]  
Hearing Date: September 19, 2012  
Genesee #02 County DHS

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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 September 19, 2012, from Lansing, Michigan. The Department was represented by [REDACTED] [REDACTED] of the Office of Inspector General (OIG).

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),  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),  Medical Assistance (MA)?

**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 June 1, 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  MA benefits during the period of August 1, 2010, through May 1, 2011.
4. Respondent  was  was not aware of the responsibility to report any change of residency to the Department.
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 August 1, 2010, through May 1, 2011.
7. During the alleged fraud period, Respondent was issued \$ [REDACTED] in  FIP  FAP  SDA  MA benefits from the State of Michigan.
8. Respondent was entitled to \$ [REDACTED] in  FIP  FAP  SDA  MA during this time period.
9. Respondent  did  did not receive an OI in the amount of \$ [REDACTED] under the  FIP  FAP  SDA  MA program.
10. During the alleged fraud period, Respondent was issued \$ [REDACTED] in  FIP  FAP  SDA  MA benefits from the State of Michigan.
11. Respondent was entitled to \$ [REDACTED] in  FIP  FAP  SDA  MA during this time period.
12. Respondent  did  did not receive an OI in the amount of \$ [REDACTED] under the  FIP  FAP  SDA  MA program.
13. The Department  has  has not established that Respondent committed an IPV.
14. This was Respondent's  first  second  third IPV.
15. 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 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 Medical Assistance (MA) program is established by 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 (DHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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 \$ [REDACTED] or more, or
- the total overissuance amount is less than \$ [REDACTED] 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 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.

Additionally, the Claimant began using her Food Assistance Program (FAP) and Medical Assistance (MA) benefits outside Michigan on April 6, 2010. On June 6, 2010, the Claimant returned to Michigan and submitted an application for benefits and began using her Food Assistance Program (FAP) and Medical Assistance (MA) benefits in Michigan. On June 15, 2010, the Claimant began exclusively using her Food Assistance Program (FAP) benefits outside Michigan and continued to use them outside Michigan until her case closed in May of 2011.

The Department conceded that there is insufficient evidence on the record to establish an intentional program violation before August 1, 2010.

### **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 \$ [REDACTED] from the following program(s)  FIP  FAP  SDA  MA.
3. Respondent  did  did not receive an OI of program benefits in the amount of \$ [REDACTED] from the following program(s)  FIP  FAP  SDA  MA.

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The Department is ORDERED to initiate recoupment procedures for the amount of \$ [REDACTED] in accordance with Department policy.

It is FURTHER ORDERED that Respondent be disqualified from  FIP  FAP  SDA for a period of  12 months.  24 months.  lifetime.

/s/  
Kevin Scully  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: September 20, 2012

Date Mailed: September 20, 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.

KS/tb

cc:

[REDACTED]