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

IN THE MATTER OF:

[redacted]

Reg. No.: 201258623
Issue No.: 3055
Case No.: [redacted]
Hearing Date: August 28, 2012
County: Genesee-02

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 August 28, 2012 from Lansing, Michigan. The Department was represented by [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 Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

2. Did Respondent commit an Intentional Program Violation (IPV)?

3. Should Respondent be disqualified from receiving 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 OIG filed a hearing request on June 19, 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 FAP benefits January 4, 2011 through May 14, 2011.

4. Between January 4, 2011 and May 14, 2011, the Claimant had multiple transactions over [redacted] at [redacted].

5. Between February 2009 and July 2011, [redacted] processed fraudulent food stamps for cash exchanges. The average monthly food stamp redemption amount for stores in the area of [redacted] was [redacted]. [redacted] average monthly food stamp redemption amount for the same time period was [redacted].

6. An investigation of [redacted] by the USDA revealed inadequate store inventory and merchandise to satisfy the monthly food stamp redemptions being reported. The EBT purchase histories showed multiple transactions in a short time period and high dollar and even dollar transactions.

7. On August 17, 2012, the owner of [redacted] was found guilty by a federal jury for conspiracy to commit food stamp fraud.

8. On April 24, 2012, co-conspirator [redacted] entered into a plea agreement, whereby acknowledging that he and the owner o[redacted] would process fraudulent food stamp transactions in exchange for cash. [redacted] indicated he would identify and procure potential cash recipients and then assist the recipient in phoning in the fraudulent transaction and then later reimbursing the individuals with cash payments.

9. Respondent ☒ was ☐ was not aware of the responsibility to report all changes within 10 days.

10. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.

11. The Department's OIG indicates that the time period they are considering the fraud period is January 4, 2011 through May 14, 2011.

12. During the alleged fraud period, Respondent was issued [redacted] in ☐ FIP ☒ FAP ☐ SDA ☐ CDC benefits from the State of Michigan.

13. Respondent ☒ did ☐ did not receive an OI in the amount of [redacted] under the ☐ FIP ☒ FAP ☐ SDA ☐ CDC program.

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

15. This was Respondent's ☒ first ☐ second ☐ third IPV.

16. 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 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.

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.

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.

A person is disqualified from FAP when an administrative hearing decision, a repayment and disqualification agreement or court decision determines FAP benefits were trafficked. These FAP trafficking disqualifications are a result of the following actions:

- Fraudulently using, transferring, altering, acquiring, or possessing coupons, authorization cards, or access devices; or

- Redeeming or presenting for payment coupons known to be fraudulently obtained or transferred.

The length of the disqualification period depends on the dollar amount of the FAP benefits trafficked. A person is disqualified for life for a FAP trafficking conviction of [redacted] or more. The standard IPV disqualification period is applied to FAP trafficking convictions less than [redacted]0. BEM 203, p. 3.

Based on the credible testimony and other evidence presented, I have concluded the OIG established, under the clear and convincing standard, that Respondent committed an IPV in this matter by trafficking their FAP benefits. Because the FAP benefits trafficked exceeded [redacted], the Respondent is disqualified for life from receiving future FAP benefits.

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 overissuance of program benefits in the amount of [redacted]5 from the following program(s) ☐ FIP ☒ FAP ☐ SDA ☐ CDC.

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 for life from receiving FAP benefits.

/s/_____
Corey A. Arendt
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 29, 2012

Date Mailed: August 29, 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.

CAA/las

cc: [redacted]