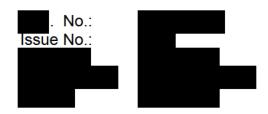
STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARING SYSTEM ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:





ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

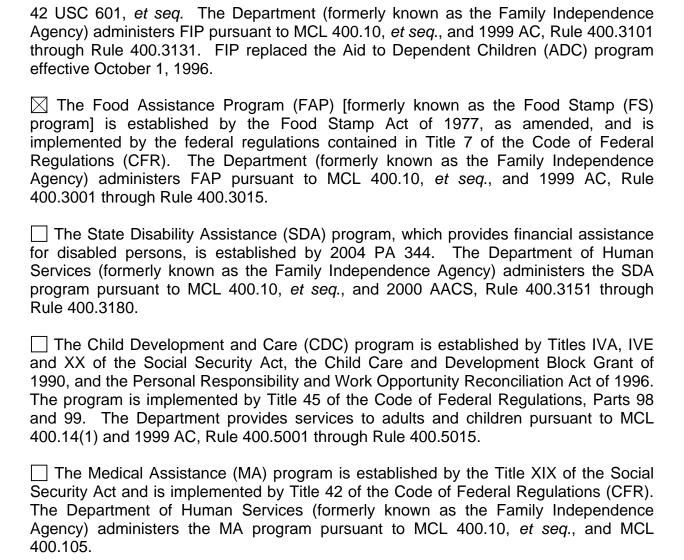
HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

| 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 the Company of the Department was represented by 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 400.3178(5). | | | | |
| <u>ISSUES</u> | | | | |
| 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) ☐ State Disability Assistance (SDA) ☐ Child Development and Care (CDC)? | | | |
| | | | | |

FINDINGS OF FACT

The Administrative Law Judge, based on the clear and convincing evidence on the whole record, finds as material fact:

| 1. | The Department's OIG filed a hearing request on benefits received by Respondent as a result of Respondent having allegedly committed an IPV. | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|
| 2. | The OIG \boxtimes has \square has not requested that Respondent be disqualified from receiving program benefits. | | | |
| 3. | Respondent was a recipient of \square FIP \boxtimes FAP \square SDA \square CDC \square MA benefits during the period of | | | |
| 4. | Respondent \boxtimes was \square was not aware of the responsibility to report any changes and circumstances including a change of residency as acknowledged on the application for assistance (DHS-1171) | | | |
| 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 Claimant was issued \$200 per month from the State of Michigan in FAP benefits during the alleged fraud time period. | | | |
| 7. | During the alleged fraud period, Respondent ineligibly received \$1,200 in \square FIP \boxtimes FAP \square SDA \square CDC \square MA benefits from the State of Michigan. | | | |
| 8. | Respondent was entitled to \$0 in $\hfill \Box$ FIP $\hfill \boxtimes$ FAP $\hfill \Box$ SDA $\hfill \Box$ CDC $\hfill \Box$ MA during this time period. | | | |
| 9. | Respondent did did not ineligibly receive an OI in the amount of \$1,200 under the FIP FAP SDA CDC MA program. | | | |
| 10 | The Department \boxtimes has \square has not established that Respondent committed an IPV. For the adjusted period of time from | | | |
| 11.This was Respondent's ⊠ first ☐ second ☐ third IPV. | | | | |
| 12 | A notice of 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, | | | | |



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,

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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.

| Very specific DHS policy and procedure is found in BAM | Items 105, 700 and 720; BEM |
|----------------------------------------------------------|----------------------------------|
| Item 220 discuses residence. Under these items, Respor | ndent has a clear responsibility |
| to report any changes in residence within ten days. Res | pondent acknowledged having |
| been informed of that responsibility by way of Responden | t's signature on the application |
| for assistance (DHS-1171) dated . The | ere is no evidence in this case |
| that Respondent complied with the duty to report the | fact that Respondent was no |
| longer residing in Michigan. The clear and convincing ev | ridence in this case shows that |
| Respondent cashed Michigan welfare benefits in the | |
| beginning . | |

DECISION AND ORDER

The Administrative Law Judge, based upon the above clear and convincing evidence and Findings of Facts, Conclusions of Law and for the reasons stated on the record, concludes that:

1. Respondent ⊠ did ☐ did not commit an IPV.

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| 2. | . Respondent ⊠ did ☐ did not receive an OI of pro \$1,200 from the following program(s) ☐ FIP ☒ FAP | | |
|--------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|--|
| | \boxtimes The Department is ORDERED to initiate recoupment procedures for the amount of \$1,200 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. | | |
| | | Janice G. Spodarek Administrative Law Judge for Maura Corrigan, Director Department of Human Services | |
| Da | ate Signed: | | |
| Da | ate Mailed: | | |

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.

JGS/jk

cc: