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

IN THE MATTER OF:



Reg. No.: 2012-66933 Issue No.: 3020; 3055 Case No.: Hearing Date: Calhoun County:

January 17, 2013

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 Departm ent of Human Servic es' (Department) request for a hearing. After due notice, an in person hearing was held on January 17, 2013, from Battle Creek Michigan, Calhoun County DHS . The Department was represented by , OIG. , APS and ES worker.

Participants on behalf of Res pondent included: Res pondent and MSW.

Respondent did not appear at the hearing and it was he ld in Respondent's a bsence pursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(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)

State Emergency Relief (SER)

benefits that the Department is entitled to recoup?

- 2. Did Respondent commit an Intentional Program Violation (IPV) of the FAP and SER programs?
- Should Respondent be disgualified from receiving



Family Independence Program (FIP) State Disability Assistance (SDA)

Food Assistance Program (FAP) Child Development and Care (CDC)?

FINDINGS OF FACT

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

- 1. The Department's OIG filed a hearing request on August 8, 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 reques ted that Respondent be disqualified from receiving program benefits.
- 3. Respondent was a recipient of ☐ FIP ⊠ FAP ☐ SDA ☐ CDC ☐ MA benefits and ⊠ SER during the periods of January 1, 2007 through June 30, 2007 for the FAP program and Januar y 1, 2007 through January 31, 2007 for the SER program. Respondent was also a recipient of FAP benefits in 2009 during an alleged fraud peri od from April 1, 2009 thru September 30, 2009; for the SER program from February 1, 2009 through February 28, 2009.
- 4. Respondent 🛛 was 🗋 was not a ware of the responsibility to report changes in household composition and changes in income.
- 5. Respondent had no apparent physical or mental im pairment that would limit the understanding or ability to fulfill this requirement.
- 6. The Department's OIG indicates t hat the time period they are considering the fraud period is J anuary 1, 2007 through June 30, 2007 for the FAP program and Januar y 1, 2007 through January 31, 2007 for the SER program. OIG initially filed for this hearing for an additional fraud period in 2009 for the FAP program from April 1, 2009 through September 30, 2009; for the SER program from February 1, 2009 through February 28, 2009.
- 7. During the alleged fraud period, Respondent was issued \$ in ⊠ FAP benefits and \$ in ⊠ SER benefits totally \$ if from the State of Michigan.
- 8. Respondent did receive an OI for the FAP and the SER programs in 2007 \$ for the FAP program and \$ for the SER program. Claimant was lawfully entitled to receive \$ for the FAP program.
- 9. At the administrative hearing, Respondent submitted a notice of overissuance due to agency error for the FAP program during the time period of January 1, 2009 through May 31, 2010. Cla imant contends that

the DHS already engaged in recoupment for this time period of an agenc y error overissuance.

- 10. The department stipulat ed that it withdraws any alleged IPV or alleged overissuance for the FAP and SER programs for 2009.
- 11. The Department ☐ has ⊠ has not establish ed that Respondent committed an IPV of the F AP program for the time period from April 1, 2009 through September 30, 2009, but did commit an IPV from January 1, 2007 through June 30, 2007 for the FAP program. The Department als o has not established that Res pondent c ommitted an IPV of the SER program for the time period from February 1, 2009 through February 28, 2009, but did commit an I PV from January 1, 2007 through January 31, 2007 for the SER program.
- 12. This was Respondent's \square first \square second \square third IPV.

CONCLUSIONS OF LAW

Department policies are contained in the Br idges 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 W ork Opportunity Reconc iliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq*. The Department (formerly k nown 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 Assistanc e Program (FAP) [form erly known as the Food Stamp (FS) program] is establis hed by the Food St amp Act of 1977, as amend ed, and is implemented by the federal r egulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independenc e 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 D epartment of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq*., and 20 00 AACS, Rule 400.3151 through Rule 400.3180.

The Child Development and Care (CDC) program is establis hed by Titles IVA, IVE and XX of the Soc ial Security Act, the Ch ild Care and Developm ent 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 Fede ral Regulations, Parts 98

and 99. The Depart ment provides servic es to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

The Medical Ass istance (MA) program is es tablished by the Title XIX of the Soc ial 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 Independ ence Agency) administers the MA pr ogram pursuant to MCL 400.10, *et seq*., and MC L 400.105.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secret ary of State on Oct ober 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

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 t o 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 sus pected when there is clear and convinc ing evidenc e that the client has intentionally withheld or misr epresented information for t he purpose of establishing, maintaining, increasing or preventing reduc tion of program benefits or eligibility. BAM 720.

The Department's OIG requests IPV hearings for cases when:

- benefit overissuanc es 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 previ ous intentional program violation, or
 - the alleged IPV involves FAP trafficking, or

- the alleged fraud involves c oncurrent receipt of assistance,
- the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an IP V disqualifies that client from receiving certain program benefits. A disqualified reci pient remains a member of an active group as long as he lives with continue to receive benefits. BAM 720.

Clients who commit an IPV are disqualified for a standard di squalification period except when a court orders a diffe rent 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 otherwis e eligible. BAM 710. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifet ime disqualification for the th ird IPV, and ten years for a concurrent receipt of benefits. BAM 720.

Credible evidence on the record indicates t hat there is no IPV and no overis suance for the FAP and SER programs during the time period from A pril 1, 2009 through September 30, 2009; and for the SER programs from February 1, 2009 through February 28, 2009. The department withdrew any alleged IPV and/or overissuance for 2009.

Clear and convincing evidence on the record indicates that an IPV of the F AP program was committed from January 1, 2007 through June 30, 2007 for \$ Clear and convincing evidence supports finding that an IPV was committed for the SER program from January 1, 2007 through January 31, 2007 in the amount of \$

DECISION AND ORDER

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

- 1. Respondent 🔀 did 🗌 did not com mit IPV's' of the F AP and SER programs.
- 2. Respondent 🖾 did 🗌 did not receive an OI of program benefits for the FAP program during the time period of January 1, 2007 through June 30, 2007 totaling \$ and for the SER program from January 1, 2007 through January 31, 2007 totaling \$

The Department is ORDERED to initiate recoupment procedures for the amount of \$1,306 and \$129.58 – totaling \$1,435.58 in accordance with Department policy.

It is FURTHER ORDERED that Respondent be disqualified from

 \square FIP \boxtimes FAP \square SDA \square CDC for a period of \boxtimes 12 months. \square 24 months. \square lifetime.

<u>/s/</u>

Janice G. Spodarek Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: February 20, 2013

Date Mailed: February 21, 2013

NOTICE: The law pr ovides 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

