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

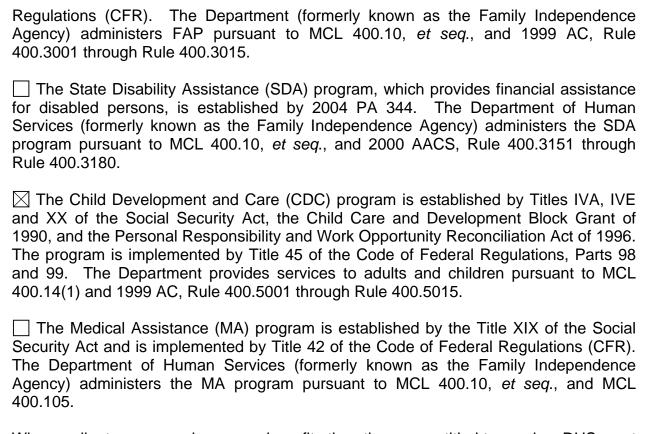
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	Reg. No.: Issue No.: Case No.: Hearing Date: County:	2012-78934 6052 November 28, 2012 Wayne (82-55)						
ADMINISTRATIVE LAW JUDGE: Robert	J. Chavez							
HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION								
This matter is before the undersigned Adm and MCL 400.37 upon the Department of hearing. After due notice, a telephone hear Detroit, Michigan. The Department was re	Human Services' (Depa aring was held <u>on Nove</u>	rtment) request for a						
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).								
<u>ISS</u>	BUES							
Did Respondent receive an overissuance	e (OI) of							
☐ Family Independence Program (FIP) ☐ State Disability Assistance (SDA) ☐ Medical Assistance (MA)		Program (FAP) ent and Care (CDC)						
benefits that the Department is entitled to recoup?								
Did Respondent commit an Intentional Program Violation (IPV)?								
3. Should Respondent be disqualified from	n receiving							
☐ Family Independence Program (FIP) ☐ State Disability Assistance (SDA)		Program (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 September 20, 2012, to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2.	The OIG $\square$ has $\boxtimes$ has not requested that Respondent be disqualified from receiving program benefits.
3.	Respondent was a recipient of $\square$ FIP $\square$ FAP $\square$ SDA $\boxtimes$ CDC $\square$ MA benefits during the period of May 10, 2009, through February 13, 2010.
4.	On an assistance application (DHS-1171) signed January 2, 2009, Respondent certified that she understood her duty to report changes and had not given false information.
5.	The Department's OIG indicates that the time period they are considering the fraud period is May 10, 2009, through February 13, 2010.
6.	During the alleged fraud period, Respondent was issued \$11,957.83 in ☐ FIP ☐ FAP ☐ SDA ☒ CDC ☐ MA benefits from the State of Michigan.
7.	This was Respondent's $\square$ first $\boxtimes$ second $\square$ third IPV.
8.	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
	epartment policies are contained in the Bridges Administrative Manual (BAM), the idges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).
42 Ag thr	The Family Independence Program (FIP) was established pursuant to the Personal esponsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, USC 601, et seq. The Department (formerly known as the Family Independence Jency) administers FIP pursuant to MCL 400.10, et seq., and 1999 AC, Rule 400.3101 rough Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program ective October 1, 1996.
	The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) ogram] is established by the Food Stamp Act of 1977, as amended, and is plemented by the federal regulations contained in Title 7 of the Code of Federal



When a client group receives more benefits than they are entitled to receive, DHS 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 overissuance is 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, or
  - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed 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, 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.

Therefore, the undersigned may only find an IPV if there is clear and convincing evidence that Respondent intentionally made a false or misleading statement, or intentionally withheld information with the intention to commit an IPV with regard to the CDC program. Thus, the Department must not only prove that Respondent committed an act, but that there was intent to commit the act.

In this case, the Department has established that Respondent was aware of the responsibility to report all changes to the Department. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities. Additionally, the undersigned is convinced that the Department has met its burden of proof in providing clear and convincing evidence that Respondent intended to defraud the Department with regard to her CDC eligibility.

The burden of proof that the Department must meet in order to prove IPV is very high. It is not enough to prove that Respondent was aware of the requirements to report at some point, nor is it enough to prove that Respondent did not report in a timely manner. The Department must prove in a clear and convincing manner that, not only did Respondent withhold critical information, but also Respondent withheld this information with the intent to commit an IPV.

In other words, the Department must prove that Respondent did not simply forget to meet her obligations to report but, rather, actively sought to defraud the Department.

The Department has proven that in the current case. Respondent initially applied for CDC benefits in Michigan on May 11, 2009. At this time, Respondent reported employment as a need reason for CDC. However, the evidence in the case shows that Respondent was not employed, at least where Respondent said she was employed.

First, an OIG site visit to the location of the alleged employer revealed a vacant house, with no indications of a business ever being there.

Second, Respondent submitted employment verifications having signatures in two different handwriting styles for the same name, which indicates a clear forgery of at least one employment verification, if we ignore the incredibly unlikely possibility that Respondent had two different employers with the same name and business.

Third, when asked to submit a verification letter in November 2009 from her employer, Respondent instead photocopied a previously submitted letter, left off the heading, and then crossed out the word "July" and wrote in "November," making for a brash, if not particularly competent, forgery.

Fourth, this isn't the first time that Respondent has been the subject of a CDC fraud investigation. Respondent had a previous case that ended up as a felony prosecution in April 2010 for the amount of \$36,605.93. While previous bad acts don't automatically imply current bad acts, they certainly merit a certain amount of healthy skepticism regarding Respondent's subsequent behavior.

When all these facts are considered, the Administrative Law Judge believes that the pattern and totality of the evidence indicates clear and convincing proof that Respondent intended to commit an IPV.

Furthermore, the undersigned has reviewed the evidence and determined that the Department has established a proper CDC OI in the amount of \$11,957.83.

While Respondent may have had other, legitimate needs for CDC, Respondent's failure to appear results in a waiver of Respondent's ability to present those needs to the Administrative Law Judge. As such, lacking other evidence, the undersigned holds that all CDC benefits received during the time period indicated were unlawfully issued.

Therefore, the undersigned holds that Respondent unlawfully received \$11,957.83 in CDC benefits and was, therefore, overissued for the period of May 10, 2009, through February 13, 2010, when the OI in question was stopped.

As Respondent intended to defraud the Department for the purposes of receiving benefits, Respondent has committed an IPV.

Because Respondent committed an IPV, the Department has properly requested a recoupment of the \$11,957.83 in CDC benefits that were unlawfully issued.

There is no disqualification period for a CDC IPV.

## **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.
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Respondent X									
\$11,957.83 from	m the fol	llowing p	rogram(s	s) 🗌 FIP	FAP [	□ SDA 🏻	CDC	MA.	

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

The Department is ORDERED to initiate recoupment procedures for the amount of \$11,957.83 in accordance with Department policy.

Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: February 11, 2013

Date Mailed: February 12, 2013

**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.

## RJC/pf

CC:

