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

#### IN THE MATTER OF:



Reg. No.: 2012-917 Issue No.: 3052

Case No.:

Hearing Date: January 18, 2012 County: Genesee (06)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

### **HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION**

an he De	tis matter is before the undersigned Administ rative Law Judge pursuant to MCL 400.9 d MCL 400.37 upon the Departm ent of Human Servic es' (Department) request for a saring. After due notice, a telephone hearing was held on January 18, 2012, from etroit, Michigan. The Department was represented by spector General (OIG).					
	Participants on behalf of Respondent included:					
pu	Respondent did not appear at the hearing and it was he ld in Respondent's absence rsuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 0.3187(5).					
<u>ISSUES</u>						
1.	. Did Respondent receive an overissuance (OI) of					
	☐ Family Independence Program (FIP) ☐ State Disability Assistance (SDA) ☐ Child Development and Care (CDC)					
	benefits that the Department is entitled to recoup?					
2.	. Did Respondent commit an Intentional Program Violation (IPV)? Yes.					
3.	. Should Respondent be disqualified from receiving					
	☐ Family Independence Program (FIP) ☐ Food Assistance Program (FAP) ☐ State Disability Assistance (SDA) ☐ Child Development and Care (CDC)?					

## **FINDINGS OF FACT**

The Administrative Law Judge, based on t he 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, 2011, to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2.	The OIG $\boxtimes$ has $\square$ has not requested that Resp ondent be dis qualified fr or receiving program benefits.
3.	Respondent was a recipient of $\ \ \Box$ FIP $\ \ \Box$ FAP $\ \ \Box$ SDA $\ \ \Box$ CDC benefits during the period of July 1, 2005 through December 31, 2005, and March 1, 2006, through June 30, 2006.
4.	Respondent $\boxtimes$ was $\square$ was not aware of the responsibelility to report changes that would affect her benefits.
5.	Respondent had no apparent physical or m ental 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 July 1, 2005 through December 31, 2005, and March 1, 2006, and March 1 2006, through June 30, 2006.
, 7.	During the alleged fra ud periods, Respondent was issued \$1,164.00 in $\square$ FIP $\boxtimes$ FAP $\square$ SDA $\square$ CDC benefits from the State of Michigan.
8.	Respondent was entitled to \$255.00 in $\square$ FIP $\boxtimes$ FAP $\square$ SDA $\square$ CDC during this time period.
9.	Respondent
10	. The Department $oxtimes$ has $oxtimes$ has not established that Respondent committed an IPV.
11	.This was Respondent's ⊠ first ☐ second ☐ third IPV.
12	and A notice of disqualificat ion hearing was mailed to Res pondent 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 Br idges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established purs uant 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 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 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 Child Care and Development 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 Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.
When a client group receives more benefits than they are entitled to receive the

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 co rrectly 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 evidence that the client has intentionally withheld or misr epresented 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 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 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 di squalification 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, lifet ime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720.

## **DECISION AND ORDER**

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 prog ram benefits in the amount of \$1,164.00 from the following program(s) ☐ FIP ☒ FAP ☐ SDA ☐ CDC.
☐ 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

\$1,164.00 in accordance with Department policy.

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☐ The Department is ORDERED to accordance with Department policy.	reduce the OI to	for the period	,	ir
igtigtigtigtigtigtigtigtigtigt	espondent be disqualified	l from		
☐ FIP ☒ FAP ☐ SDA ☐ CD ☒ 12 months. ☐ 24 months.	C for a period of lifetime.			

Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 24, 2012

Date Mailed: January 24, 2012

**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 fo r the county in which he/she lives.

#### MJB/cl

