

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-11379
Issue No.: 3052
Case No.: [REDACTED]
Hearing Date: March 7, 2012
County: Alpena

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 and the Department of Human Services' (Department) request for a hearing. After due notice, a telephone hearing was held on March 7, 2012, from Detroit, Michigan. The Department was represented by [REDACTED].

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).

ISSUES

1. Did Respondent receive an overissuance (OI) of
 Family Independence Program (FIP) 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
 Family Independence Program (FIP) Food Assistance Program (FAP)
benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material, and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. The Department's OIG filed a hearing request on January 27, 2012, to establish an OI of benefits received by Respondent.
2. The OIG has has not requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of FAP FIP benefits during the period of 9/1/2010-10/31/2011.
4. By signing Assistance Applications on June 23, 2010, and July 8, 2011, Respondent acknowledged his responsibility to report changes in his residence to the Department.
5. Respondent had no apparent physical or mental impairment that would limit his understanding or ability to fulfill this responsibility.
6. Respondent did not use FAP FIP benefits outside of the State of Michigan.
7. The OIG indicates that the time period they are considering the fraud period is 9/1/2010-10/31/2011.
8. During the alleged fraud period, Respondent was issued \$2,626 in FAP FIP benefits from the State of Michigan.
9. During the alleged fraud period, the Department alleges that Respondent received unknown types of benefits, in unknown amounts, from the State of Illinois.
10. The Department has has not established that Respondent received concurrent benefits and thus committed an IPV.
11. This was Respondent's alleged first second third IPV.
12. 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known 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 Assistance Program (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, 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 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 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 that 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.

Additionally, the Department failed to submit clear and convincing evidence that Claimant received public assistance benefits from another state. The Department failed to submit records of payment to Respondent from another state's human services department. The Department's email correspondence records, stating that Respondent received such benefits, is insufficient evidence and does not establish the Department's assertion that IPV or OI occurred in this case. The Department's request for an order permitting recoupment and disqualification is DENIED.

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 OI of program benefits in the amount of \$ _____ from the following program(s) FAP FIP.
- The Department is ORDERED to delete the OI and cease any recoupment action.



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

Date Signed: March 7, 2012

2012-11379/JL

Date Mailed: March 7, 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.

JL/pf

cc:

