

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

**IN THE MATTER OF:**



Reg. No.: 20125219  
Issue No.: 3055  
Case No.: [REDACTED]  
Hearing Date: November 30, 2011  
County: Wayne DHS (55)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 November 30, 2011 from Detroit, Michigan. The Department was represented by [REDACTED], of the Office of Inspector General. 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**

Did the Respondent commit an Intentional Program Violation (IPV)?

Did the Respondent receive an overissuance (OI) of  Family Independence Program (FIP)  Food Assistance Program (FAP)  State Disability Assistance (SDA)  Child Development and Care (CDC) benefits that the Department is entitled to recoup?

**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 Office of Inspector General (OIG) filed a hearing request 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 requested that Respondent be disqualified from receiving program benefits.

3. Respondent was a recipient of  FIP  FAP  SDA  CDC benefits during the period of 11/2006, through 4/2007.
4. There is insufficient evidence to determine that Respondent committed an IPV.
5. The Office of Inspector General indicates that the time period they are considering the fraud period is 11/2006-4/2007.
6. During the alleged fraud period, the Respondent was issued \$1830 in FIP benefits and \$930 in FAP benefits from the State of Michigan.
7. The Respondent was entitled to \$0 in FIP benefits and \$0 in FAP benefits from the State of Michigan during the above named period.
8. As a result, Respondent received an overissuance of \$1830 in FIP and \$930 in FAP benefits.
9. 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.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, Rule 400.3151 through Rule 400.3180.

□ The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social 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, DHS must attempt to recoup the overissuance (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 Office of Inspector General processes intentional program hearings for overissuance referred to them for investigation. The Office of Inspector General represents the department during the hearing process. The Office of Inspector General requests intentional program 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 either:
  - the group has a previous intentional program violation,
  - the alleged IPV involves FAP trafficking,
  - the alleged fraud involves concurrent receipt of assistance, or
  - the alleged fraud is committed by a state/government employee.

In the present case, DHS alleged that Respondent committed an IPV by failing to timely report employment income to DHS. Specifically, DHS contended that Respondent began employment on 8/25/06 but did not report the employment to DHS until one year

later, when DHS began to budget the income in Respondent's benefit calculations. Clients have 10 days to report increase in income (see PAM 105 at 7).

However, a clear and convincing standard typically demands production of a written statement by Respondent which conflicts with known facts. For example, an application that fails to list employment when it is later revealed that the client had employment income at the time the application was made is persuasive evidence that an IPV occurred. In the present case, DHS could not produce written documentation from Respondent that failed to list employment during a time when Respondent was employed. DHS only established that they failed to timely budget employment income. This circumstance could reasonably be explained by a failure by DHS to timely budget the employment income after it was reported by Respondent. In such a case, the error would be the fault of DHS, not Respondent. It is found that DHS failed to establish that Respondent committed an IPV concerning the alleged failure to timely report employment.

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over-issuance (OI). BAM 700 at 1. An OI is the amount of benefits issued to the client group in excess of what they were eligible to receive. *Id.* Recoupment is a DHS action to identify and recover a benefit OI. *Id.*

DHS may pursue an OI whether it is a client caused error or DHS error. *Id.* at 5. Client and DHS error OIs are not pursued if the estimated OI amount is less than \$125 per program. BAM 700 at 7. If improper budgeting of income caused the OI, DHS is to recalculate the benefits using actual income for the past OI month for that income source. BAM 705 at 6.

In the present case, DHS verified Respondent received employment income beginning 9/25/06 (see Exhibit 21) and that the income was not factored into Respondent's FIP and FAP benefit eligibility effective 11/2006 and through 4/2007. DHS provided budgets for each benefit month (see Exhibits 28-52) which established that DHS over-issued FIP benefits in the amount of \$1830 and FAP benefits in the amount of \$930.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Respondent  
 did commit an IPV                       did not commit an IPV and  
 did receive                               did not receive  
an overissuance of program benefits in the amount of \$1830 in FIP benefits and \$930 in FAP benefits.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Respondent  did  did not commit an IPV with regard to the

FIP  FAP  SDA  CDC program and  did  did not receive overissuances in program benefits.

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 \$ 1830 (FIP) and \$930 (FAP) in accordance with Department policy.



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

Date Signed: 12/7/11

Date Mailed: 12/7/11

**NOTICE:** The law provides that within 60 days from the mailing date of the above hearing Decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

Respondent may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the Respondent:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at  
Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

CG/hw

cc:



