

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

IN THE MATTER OF:

[REDACTED]

Reg. No.:

Issue No.:

[REDACTED]

[REDACTED]

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 Department of Human Services' (Department) request for a hearing. After due notice, a telephone hearing was held on [REDACTED], from [REDACTED] Michigan. The Department was represented by [REDACTED], Agent with the Office of Inspector General (OIG).

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 400.3178(5).

ISSUES

1. Did Respondent receive an overissuance (OI) of

- | | |
|---|---|
| <input type="checkbox"/> Family Independence Program (FIP) | <input checked="" type="checkbox"/> Food Assistance Program (FAP) |
| <input type="checkbox"/> State Disability Assistance (SDA) | <input type="checkbox"/> Child Development and Care (CDC) |
| <input checked="" type="checkbox"/> Medical Assistance (MA) | |

benefits that the Department is entitled to recoup?

2. Did Respondent commit an Intentional Program Violation (IPV)?

3. Should Respondent be disqualified from receiving

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP) | <input checked="" type="checkbox"/> Food Assistance Program (FAP) |
| <input type="checkbox"/> State Disability Assistance (SDA) | <input type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

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

1. The Department's OIG filed a hearing request on [REDACTED] 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 the FAP program for ineligibly receiving FAP benefits due to an IPV.
3. Respondent was a recipient of FIP FAP SDA CDC MA benefits during the period of [REDACTED].
4. Respondent was was not aware of the responsibility to report any changes including a change in residence pursuant to her signature on the application for assistance (DHS-1171) dated [REDACTED].
5. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. The Department's OIG indicates that the time period for the FAP program they are considering the fraud period is [REDACTED]; for the MA program the time period of [REDACTED].
7. During the alleged fraud period, Respondent was ineligibly issued \$1,400 in FAP program benefits and \$3,385.15 in MA program benefits from the State of Michigan per the department's OIG's testimony and pursuant to the evidence on the Hearing Summary. The contrary dollar amounts identified on Exhibit 2 were not testified to by the OIG agency and were not admitted on the record.
8. Respondent was entitled to \$0 in FIP FAP SDA CDC MA during the alleged fraud period of time.
9. Respondent did did not receive an OI that rose to an IPV for both the FAP and MA programs.
10. The Department has has not established that Respondent committed a first IPV of the FAP program and an IPV of the MA program.
11. This was Respondent's first second third IPV of the FAP program.
12. A notice of 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.

The Medical Assistance (MA) program is established by the Title XIX of the Social 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 Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

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 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 overissuances 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 an IPV disqualifies that client from receiving certain 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 overissuance 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.

General applicable policy and procedures found in BAM Items 105, 700 and 720. Residence policy and procedure is found specifically in BEM Item 220. This policy indicates that an individual is not eligible to receive FAP and MA welfare benefits if they reside outside the State of Michigan.

Clear and convincing evidence on the record indicates that Respondent cashed Michigan FAP benefits in the State of [REDACTED] from [REDACTED] [REDACTED] and continuously through [REDACTED] in the State of [REDACTED]. At this time, Respondent was also a recipient of the Michigan Medicaid program. Giving claimant a 30 day exemption on the grounds of a possible temporary absence, the department's fraud time period does not begin for the FAP program until [REDACTED]). This ALJ notes that the total dollar amount for the FAP program fraud on the hearing summary as well as testimony by the OIG agent is inconsistent with the total dollar amount indicated on Exhibit 2. As the law and policy requires a clear and convincing standard, this ALJ will take the dollar amount that the OIG testified to under oath as to the total FAP IPV - \$1,400 - as indicated on the hearing summary (as well as testimony). Thus, this ALJ finds the total FAP fraud amount is \$1,400.

As to the MA program, during this alleged fraud time period, the State of Michigan paid \$3,385.15 in Medicaid benefits on behalf of claimant while she was not eligible as she was not a resident of the State of Michigan during the period of [REDACTED] through [REDACTED]

The undersigned ALJ has reviewed the entire evidence and finds that there is clear and convincing evidence that Respondent ineligibly benefited from the FAP program in the amount of \$1,400 and \$3,385.15 from the MA program, totally \$4,785.15.

DECISION AND ORDER

The Administrative Law Judge, based upon the above clear and convincing evidence, and Findings of Facts, 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 \$1,400 during the alleged fraud for the FAP program during the period of [REDACTED] through [REDACTED]. Respondent did receive an OI of the MA program benefits in the amount of \$3,385.15 during the period of [REDACTED] through [REDACTED]. The total IPV for both programs is \$4,785.15.

The Department is ORDERED to initiate recoupment procedures for the amount of \$1,400 for the FAP program and \$3,385.15 for the MA program in accordance with Department policy, totally \$4,785.15.

It is FURTHER ORDERED that Respondent be disqualified from

- FIP FAP SDA CDC for a period of
 12 months. 24 months. lifetime.

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

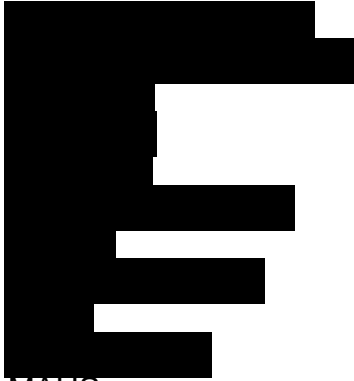
Date Signed: [REDACTED]

Date Mailed: [REDACTED]

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.

JGS/jk

cc:

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MAHS