

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2012-9390  
Issue No.: 6052  
Case No.: [REDACTED]  
Hearing Date: January 4, 2012  
County: Wayne (82-41)

**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 January 4, 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

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

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

**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 December 5, 2011, 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 July 23, 2006, through October 28, 2006.
4. Respondent  was  was not aware of the responsibility to repay benefits that were overpaid for any reason, and to report changes in income and employment.
5. Respondent had no apparent physical or mental impairment that would limit her understanding or ability to fulfill these requirements.
6. The Department's OIG indicates that the two time periods they are considering the fraud periods are July 23-September 2, 2006 and September 17-October 28, 2006.
7. During the alleged fraud periods, Respondent was issued \$3,281 in  FIP  FAP  SDA  CDC benefits from the State of Michigan.
8. Respondent was entitled to \$3,281 in  FIP  FAP  SDA  CDC during this time period.
9. Respondent  did  did not receive an OI in the amount of \$3,281 under the  FIP  FAP  SDA  CDC program.
10. The Department  has  has not established that Respondent committed an IPV.
11. This was Respondent's  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.

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 AACCS, 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, 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 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. 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's sole evidence of IPV and OI is a DHS record of checks issued during the two alleged overissuance periods. The check record was examined for evidence of duplicate billing from July 23-September 2, 2006, the first of the two alleged fraud periods. Upon examination of the check register, it appears that this item of evidence shows the issuance of two checks to a childcare provider under one program (PRG C), one on August 2 and one on August 16, and no other checks issued in that same program. It is found and determined that the Department's evidence fails to establish that Respondent submitted duplicate billings from July 23-September 2, 2006.

Next, with regard to the second alleged IPV period, September 17-October 28, 2006, the Department presented evidence that Respondent ended one job on September 5, 2006; but, the Department has not proved its allegation that she was unemployed afterwards. The Department's Hearing Summary alleges that Respondent began a new job on October 31, 2006, but provided no proof whatsoever to substantiate this allegation.

Without evidence to establish the dates Respondent was unemployed and therefore ineligible for CDC (non-financial eligibility), there is nothing to verify that she was ever unemployed and ineligible for CDC benefits. Stated in another way, there is insufficient evidence in the record for this Judge to determine the period of time, if any, of non-financial eligibility.

**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 \$3,281 from the following program(s)  FIP  FAP  SDA  CDC.
- The Department is ORDERED to delete the OI and cease any recoupment action.



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

Date Signed: January 9, 2012

Date Mailed: January 9, 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:

