

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2013 22814
Issue No.: 3052, 1052
Case No.: ██████████
Hearing Date: April 10, 2013
County: Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION FOR CONCURRENT BENEFITS
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 dated December 18, 2012. After due notice, a telephone hearing was held on April 10, 2013 from Detroit, Michigan. The Department was represented by ██████████ ██████████ Regulation Agent of 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 400.3187(5).

ISSUES

1. Did Respondent receive an overissuance (OI) of
 Family Independence Program (FIP) Food Assistance Program (FAP)
 Medical Assistance Program (MA)
benefits that the Department is entitled to recoup?
2. Did Respondent commit an Intentional Program Violation IPV and receive concurrent FAP benefits?
3. Should Respondent be disqualified from receiving
 Family Independence Program (FIP) Food Assistance Program (FAP)

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 OIG filed a hearing request on December 18, 2012 to establish an OI of FAP benefits and an Intentional Program Violation by Respondent as a result of Respondent having received concurrent program benefits and, as such, 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 FAP FIP MA benefits during the period of September 1, 2009 to May 31, 2010 and May 1, 2011 to September 30, 2012.
4. Respondent was a recipient of FAP FIP MA benefits during the period of June 1, 2011 TO September 30, 2011.
5. On the Assistance Application signed by Respondent on June 10, 2008 and May 5, 2011 Respondent reported that she/he intended to stay in Michigan. .
6. Respondent was aware of the responsibility to report changes in her/his residence to the Department.
7. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
8. Respondent began using FAP FIP MA benefits outside of the State of Michigan beginning in 9/01/09 FAP and 6/1/11 FIP. Exhibit 1 pp.1.
9. The Respondent lived in Tennessee during the alleged fraud period. Exhibit 1, pp25.
10. The OIG indicates that the time period they are considering the fraud period is September 1, 2009 through May 31, 2010 and May 1, 2011 through September 30, 2012 (FAP) and June 1, 2011 through September 30, 2011,(FIP) Exhibit 1, pp. 1 and 2.
11. During the alleged fraud period, Respondent was issued \$1800 and \$6043 in FAP AND \$1612 in FIP MA benefits from the State of Michigan.

12. During the alleged fraud period, Respondent was receiving concurrent FAP benefits from the State of Michigan and was receiving FAP benefits in the State of Tennessee. Exhibit 1.

13. The Department has has not established that Respondent received concurrent FAP benefits and FIP benefits from both Michigan and Tennessee and thus committed an IPV.

14. This was Respondent's first second third IPV for FAP and FIP benefits.

15. 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.

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 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.

Additionally, in this matter a thorough review of the evidence provided by the Department did establish concurrent receipt of FAP benefits from Michigan and Tennessee by the Claimant. A review of the proofs offered to establish Claimant's Tennessee residence was sufficient as the official letter from the State of Tennessee confirmed a Tennessee address. Exhibit 5, pp15.

The correspondence by letter provided by the State of Tennessee confirms the Claimant began receiving food assistance as of September 2009 and began receiving FIP benefits as of January 2011 through September 2011. Exhibit 5 pp.15.

The Department's evidence also demonstrated that the Claimant received FAP benefits and FIP benefits from the Michigan during the periods in question and thus did establish that the Claimant did receive concurrent FIP and FAP benefits. Exhibit 5 and Exhibits 8 and 9.

Based on the foregoing the Department did establish by clear and convincing evidence that the Claimant did receive concurrent benefits from Michigan and Tennessee and thus did establish an IPV. BAM 720. The Department has established that it is entitled to a finding of overissuance in the amount of \$7843 in FAP benefits and \$1612 in FIP benefits and is entitled to a recoupment for those respective amounts.

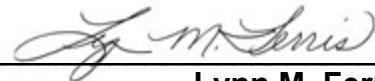
DECISION AND ORDER

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 with regard to concurrent receipt of FAP benefits and FIP benefits.
2. Respondent did did not receive an OI of program benefits in the amount of \$7843 (FAP) and \$1612 (FIP) from the following program(s) FAP FIP MA.

The Department is ORDERED to initiate recoupment procedures in the amount of \$7843 (FAP) and \$1612 (FIP) in accordance with Department policy.

It is FURTHER ORDERED that Respondent be personally disqualified from participation in the FAP program and the FIP program for 10 years. This disqualification period shall begin immediately as of the date of this Order.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 19, 2013

Date Mailed: June 19, 2013

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.

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]