

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

**IN THE MATTER OF:**

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

Reg. No.: 2013 22815  
Issue No.: 3052, 2052  
Case No.: ██████████  
Hearing Date: April 10, 2013  
County: Wayne (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 26, 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).

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 January 10, 2013 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 August 1, 2011 to October 31, 2012, and received a FAP overissuance in the amount of \$2979.
4. Respondent's daughter was a recipient of Medical Assistance benefits for the period August 1, 2011 to December 31, 2011 during which period the Claimant received an overissuance of \$809.29.
5. On the Assistance Application signed by Respondent on March 25, 2010 the Respondent reported that she intended to stay in Michigan. On the redetermination filed on May 15, 2012 Respondent reported that [REDACTED] was in the home. [REDACTED] was eligible for SNAP benefits in Kentucky from August 1, 2011 to July 31, 2012.
6. Respondent was aware of the responsibility to report changes in her 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. The Respondent lived in Michigan during the alleged fraud period.
9. The OIG indicates that the time period they are considering the fraud period is August 1, 2011 through October 31, 2012
10. During the alleged fraud period, Respondent was issued FAP benefits in the amounts show in Exhibit 1 pp. 45 – 47.  FAP  FIP  MA benefits from the State of Michigan.
11. The Department  has  has not established that Respondent received concurrent FAP benefits from both Michigan and Kentucky and thus committed an IPV.

12. This was Respondent's  first  second  third IPV for FAP benefits.

13. 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 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 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, 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 presented and admitted by the Department did not establish a concurrent receipt of FAP benefits by the Claimant from Michigan and Kentucky. The evidence also did not support an intentional program violation. The Claimant, when she originally applied for benefits, requested FAP for herself and Medical Assistance for herself and her daughter. The Claimant specifically did not request food assistance for her daughter and did not list her as a household member under the age of 22. When the Claimant's daughter began receiving FAP benefits in Kentucky, the Claimant did receive an overissuance of FAP benefits as her daughter was no longer in the FAP group, thus Claimant received benefits she was not entitled to. However, the evidence presented did not establish intent to defraud by the Claimant with regard to receipt of FAP benefits by clear and convincing evidence.

However, it is also determined that the Claimant should have reported to the Department when her daughter had moved to Kentucky and began attending school there so that the Medical Assistance for her daughter was cancelled. Because she did not report her daughter's moving to Kentucky, the Claimant is responsible for an overissuance for Medical Assistance premiums incurred on behalf of her daughter by the State of Michigan in the amount of the overissuance \$809.29. The evidence did

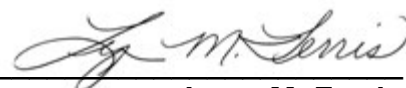
show that the Claimant's daughter applied for and did receive FAP benefits beginning August 1, 2011 through July 31, 2012. Exhibit 1 pp. 42.

Based upon the foregoing it is determined that the Department through the OIG has not established by clear and convincing evidence that the Claimant had received FAP benefits concurrently from Michigan and Kentucky or an intent to defraud such that an intentional program violation is found. The evidence did establish that Claimant did receive an overissuance of FAP benefits in the amount of \$2979. Exhibit 1 pp. 45-47. Further the evidence also established an overissuance of medical assistance premiums in the amount of \$809.29. Exhibit 1 pp. 48.

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 thus no disqualification is ordered.
2. Respondent  did  did not receive an OI of program benefits in the amount of \$2979 Food Assistance (FAP) and \$809.29 Medical Assistance from the following program(s)  FAP  FIP  MA.

The Department is ORDERED to initiate recoupment procedures for the amount of \$2979 for FAP and \$809.29 Medical Assistance in accordance with Department policy.



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

Date Signed: June 20, 2013

Date Mailed: June 20, 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]