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

IN THE MATTER OF:

[redacted]

Reg. No: 2013-20483
Issue No: 3055
Case No: [redacted]
Hearing Date: March 13, 2013
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 March 13, 2013 from Lansing, Michigan. The Department was represented by [redacted] 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), ☐ State Disability Assistance (SDA), ☐ 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 ☐ Family Independence Program (FIP), ☒ Food Assistance Program (FAP), ☐ State Disability Assistance (SDA), ☐ Child Development and Care (CDC)?

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 27, 2012 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 reques ted that Respondent be disqualified from receiving program benefits.

3. Respondent was a recipient of F AP benefits during the period of June 1, 2010 through June 30, 2011.

4. From June 1, 2010 through August 2010, the Claimant failed to report her employment at [redacted]

5. From December 18, 2010 through June 30, 2011, the Claimant failed to report her incarceration in the Jackson County Jail.

6. The Claimant's FAP benefits were used during the period of incarceration.

7. Respondent ☒ was ☐ was not aware of the res ponsibility to report all changes within 10 days.

8. Respondent had no appar ent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.

9. The Department's OIG indicates t hat the tim e period they are considering the fraud period is June 1, 2010 th rough August 31, 2010 and J anuary 1, 2011 through June 30, 2011.

10. During the alleged fraud period, Respondent was is sued $[redacted] in F AP benefits.

11. During the alleged fra ud period, Respondent was entitled to $[redacted] in FAP benefits.

12. The Department ☒ has ☐ has not establish ed that Respondent committed an IPV.

13. A notice of disqualific ation hearing was mailed to Res pondent at the last known address and ☐ was ☒ was not returned by the US Post Office as undeliverable.

CONCLUSIONS OF LAW

The Food Assistanc e Program (FAP) (formerly known as the Food Stamp (FS) program) is establis hed by the Food St amp Act of 1977, as amended, and is implemented by the federal r egulations contained in Title 7 of the Code of Federal Regulations (CFR). The De partment of Human Servic es (DHS or Department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In this case, the Department has requested a disqualification hearing to establish an over issuance of benefits as a result of an IPV and the Department has asked that the respondent be disqualified from receiving benefits. The Department's manuals provide the following relevant policy statements and instructions for Department caseworkers.

When a customer client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700. A suspected intentional program violation means an over issuance where:

- 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.

The Department suspects an intentional program violation when the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the client acted intentionally for this purpose. BAM 720.

The Department's Office of Inspector General processes intentional program hearings for over issuances 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 over issuances 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 over issuance amount is $1000 or more, or
    - the total over issuance 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 intentional program violation 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 that commit an intentional program violation 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. This is the respondent's first intentional program violation.

Based on the credible testimony and other evidence presented, I have concluded the OIG established, under the clear and convincing standard, that Respondent committed an IPV in this matter. As at no time did the Respondent inform the Department of her employment and income or her incarceration as she knew she was required to do in order to receive additional benefits.

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law:

1. Respondent ☒ did ☐ did not commit an IPV

2. Respondent ☒ did ☐ did not receive an overissuance of program benefits in the amount of $[redacted] from the following program(s) ☐ FIP ☒ FAP ☐ SDA ☐ CDC.

The Department is ORDERED to initiate recoupment procedures for the amount of $[redacted] in accordance with Department policy.

It is FURTHER ORDERED that Respondent be disqualified from FAP for a period of 12 months.

/s/_____
Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 14, 2013

Date Mailed: March 14, 2013

NOTICE: The law pr ovides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court fo r the county in which he/she lives.

CAA/las

cc: [redacted]