

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

IN THE MATTER OF:



Reg. No.: 2013-22232
Issue Nos.: 1052, 6052
Case No.: [REDACTED]
Hearing Date: [REDACTED] 2013
County: Wayne (17)

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 upon the Department of Human Services' (Department) request for a hearing. After due notice, a telephone hearing was held on February 27, 2013, from Detroit, Michigan. The Department was represented by [REDACTED] of the Department's Office of the Inspector General (OIG).

On April 25, 2013, this case was reassigned to Administrative Law Judge Jan Leventer for preparation of a decision and order.

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 checked="" 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) |
| <input 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

- 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 January 25, 2013 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 MA benefits during the periods of June-October, 2007 (FIP benefits) and March-October, 2008 (CDC benefits).
4. Respondent was was not aware of the responsibility to report changes of employment and income.
5. Respondent had no apparent physical or mental impairment that would limit her understanding or ability to fulfill this requirement.
6. The OIG indicates that the time periods they are considering the fraud periods are June-October, 2007 (FIP) and March-October, 2008 (CDC).
7. During the alleged fraud periods, Respondent was issued \$13,798 in FIP FAP SDA CDC MA benefits from the State of Michigan.
8. Respondent was entitled to \$0.00 in FIP FAP SDA CDC MA during this time period.
9. Respondent did did not receive an OI in the amount of \$13,798 under the FIP FAP SDA CDC MA programs.
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 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 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 overissuance (OI). Department of Human Services Bridges Administrative Manual (BAM) 700 (2013).

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. Department of Human Services Bridges Administrative Manual (BAM) 720 (2013).

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, or
 - 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. *Id.*

Clients who commit an IPV are disqualified for a standard disqualification period except when a court orders a different period, or except when the OI relates to MA. Refusal to repay will not cause denial of current or future MA if the client is otherwise eligible. Department of Human Services Bridges Administrative Manual (BAM) 710 (2009). 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 following findings of fact and conclusions of law are entered in this case. On January 30, 2006, and January 18, 2007, Respondent signed applications for FIP, FAP and MA benefits. Her signature appears under a statement stating that she received the Department's Acknowledgements paperwork which explains additional information about receiving benefits. Dept. Exh. 1, pp, 29-44. However, the Department failed to submit the 2006 and 2007 Acknowledgments documents, and it is impossible to determine the specific requirements imposed upon Respondent in 2006 and 2007 without the necessary documentation.

Having considered all of the evidence in this case in its entirety, it is found and determined that the Department failed to establish the first IPV element, i.e., that Respondent knew of her responsibility to report changes of income. As the Department bears the responsibility of proving all three IPV elements, it must be found and determined that the Department in this case cannot establish a FIP IPV. Accordingly, the Department's request for a FIP IVP finding is DENIED.

Turning next to the Department's request for a finding of IPV in the CDC program, the Department submitted two applications for CDC benefits signed by Respondent. The first is a Child Care and Development Application, DHS Form 4583, signed on February 19, 2007. This application specifies that changes must be reported within ten days.

Dept. Exh. 1, pp. 60-63. However, a year later on February 5, 2008, the Department required Respondent to sign and submit a second CDC application using the multi-program application form, DHS Form 1171. *Id.*, pp. 45-52. The 2008 CDC application is the same form that the Department used in 2006 and 2007, containing only a reference to an Acknowledgments document. *Id.*, pp. 35, 43, and 51.

As with the Department's FIP IPV allegation for 2007, the Department's CDC IPV allegation for 2008 must similarly be denied. Having considered all of the evidence in this case as a whole, it is found and determined that while Respondent signed a CDC application in 2007, she was required to sign a different one in 2008, and the responsibilities imposed under the new 2008 application are unknown. Accordingly, it is found and determined that the Department in this case failed to establish that Respondent intentionally failed to report information to the Department. The Department's request for IPV in the CDC program is DENIED.

Having considered the Department's requests for IPV violations, it is now necessary to consider whether FIP and CDC overissuances occurred in this case. The evidence submitted by the Department regarding FIP overissuance in 2007 is that Respondent was not entitled to FIP benefits from June-October, 2007, because she was working. *Id.*, pp. 21-23. Indeed, Respondent herself acknowledged her employment on her February 5, 2008 application. *Id.*, p. 48.

Having considered all of the evidence in this case as a whole, therefore, it is found and determined that a FIP overissuance occurred from June-October, 2007. The Department's request for a finding of overissuance in the FIP program is GRANTED.

Once this finding is made, the Department shall seek recoupment. Department of Human Services Bridges Administrative Manual (BAM) 700 (2013).

The next and last consideration before the factfinder is whether a CDC overissuance occurred in March-October, 2008. The Department's evidence indicates that Respondent's employment ended on February 21, 2008, making her ineligible for CDC benefits. *Id.*, p. 22. It is therefore found and determined that the CDC benefits paid to Respondent in March-October, 2008, were paid in error. The Department's request for a finding of CDC overissuance is GRANTED, and the Department shall seek recoupment. BAM 700.

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 \$13,798 from the following program(s) FIP FAP SDA CDC MA.

The Department is ORDERED to initiate recoupment procedures for the amount of \$13,798 in accordance with Department policy.



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

Date Signed: May 13, 2013

Date Mailed: May 13, 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.

JL/tm

cc:

