

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

**IN THE MATTER OF:**

[REDACTED]  
CANTON, MI 48188

Reg. No.: 201322233  
Issue No.: 3052  
Case No.: [REDACTED]  
Hearing Date: April 10, 2013  
County: Wayne (17)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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 request by the Department of Human Services (Department) for a hearing. After due notice, a telephone hearing was held on April 10, 2013 from Detroit, Michigan. The Department was represented by [REDACTED], 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)?
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 8, 2013 to establish an OI of benefits received by Respondent as a result of Respondent having allegedly having 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 issued by the State of Michigan.
4. Respondent was aware that he was prohibited from receiving food assistance benefits from another state while receiving FAP benefits from the State of Michigan.
5. Respondent had no apparent physical or mental impairment that would limit the understanding of these requirements or limitations.
6. The Department alleges that Respondent was receiving food assistance benefits issued by the State of [REDACTED] while he was receiving Michigan-issued FAP benefits.
7. The OIG indicates that the time period they are considering the fraud period is October 1, 2009 through December 31, 2009.
8. During the alleged fraud period, Respondent was issued \$1242 in  FAP  FIP  MA benefits from the State of Michigan.
9. The Department alleges that Respondent was entitled to \$0 in  FIP  FAP  SDA  CDC benefits from the State of Michigan during this time period.
10. As a result, the OIG alleges that Respondent received an OI in the amount of \$1242 under the  FIP  FAP  SDA  CDC program.
11. This was Respondent's  first  second  third alleged FAP 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 Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), and the Department of Human Services 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 Mich Admin Code R 400.3001 through R 400.3015.

The Department's OIG requests IPV hearings for cases when:

- benefit overissuance are not forwarded to the prosecutor, or
- 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. [BAM 720 (February 1, 2013), p 10.]

#### Intentional Program Violation

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. [BAM 720, p 1 (emphasis in original).]

An IPV requires that the Department establish by 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, p 1 (emphasis in original). Clear and convincing evidence is evidence sufficient to result in a clear and firm belief that the proposition is true. See M Civ JI 8.01.

In this case, the Department alleged that Respondent received FAP benefits from the State of Michigan at the same time he received food assistance benefits from the State of [REDACTED]. The evidence at the hearing consisted of (i) a PARIS match, showing that, as of November 2009, a member of Respondent's FAP group was receiving food assistance benefits in [REDACTED] while Respondent was receiving Michigan-issued FAP benefits, (ii) an email from the [REDACTED] authorities showing that Respondent was a member of the group receiving food assistance benefits from the State of [REDACTED] between October 1, 2009, and December 31, 2009, and (iii) a benefits issuance summary showing that the Department issued FAP benefits to Respondent, as head-of-household, between October 1, 2009 and December 31, 2009. This evidence established that between October 1, 2009 and December 31, 2009, Respondent was a member of a group that received Michigan-issued FAP benefits and, during the same period, was a member of a group that received food assistance benefits issued by the State of [REDACTED]. This evidence was sufficient to show, by clear and convincing evidence, that Respondent intentionally withheld or misrepresented information to the Department for the purpose of establishing, maintaining, increasing or preventing reduction of his FAP benefits or eligibility in the State of Michigan. Thus, the Department satisfied its burden of establishing that Respondent committed an IPV of FAP benefits based on concurrent receipt of benefits.

#### Disqualification

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, p 12.

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 (October 1, 2009), p 2. 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, p 13.

Because the Department satisfied its burden of establishing that Respondent committed an IPV of FAP benefits involving concurrent receipt of benefits, Respondent is subject to a ten-year FAP disqualification.

#### Recoupment of Overissuance

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (February 1, 2013), p 1. The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 720, p 6; BAM 715 (February 1, 2013), pp 1, 5; BAM 705 (February 1, 2013), p 5.

In this case, the Department established that it issued \$1242 in FAP benefits to Respondent between October 1, 2009 and December 31, 2009. As discussed above,

during those months, Respondent was also receiving food assistance from [REDACTED]. Respondent was not eligible for FAP benefits issued by the State of Michigan during any period he received food assistance benefits issued by the State of [REDACTED]. BEM 222 (June 1, 2011), p 2. The Department testified that, while Michigan FAP benefits issued to Respondent between January 1, 2010 and March 2010 were expunged from Respondent's EBT card after the Department became aware of the dual assistance, Respondent had used the FAP benefits issued between October 2009 and December 2009.

Based on the facts in this case, Respondent was not eligible for any FAP benefits issued by the State of Michigan between October 1, 2009 and December 31, 2009, and the Department is entitled to recoup the entire \$1242 in FAP benefits issued to Respondent by the State of Michigan during that period.

### **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 \$1242 from the following program(s)  FAP  FIP  MA.

The Department is ORDERED to

- delete the OI and cease any recoupment action.
- initiate recoupment procedures for the amount of \$1242 in accordance with Department policy.
- reduce the OI to \$ \_\_\_\_\_ for the period \_\_\_\_\_, and initiate recoupment procedures in accordance with Department policy.

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

  
**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 4/19/2013

Date Mailed: 4/19/2013

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**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.

ACE/hw

cc:

