

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

**IN THE MATTER OF:**



Reg. No.: 2013 25014  
Issue No.: 3052,2052  
Case No.: [REDACTED]  
Hearing Date: April 24, 2013  
County: Wayne (17)

**ADMINISTRATIVE LAW JUDGE:** Lynn M. Ferris

**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 dated January 22, 2013. After due notice, a telephone hearing was held on April 24, 2013, from Detroit, Michigan. The Department was represented by [REDACTED] Cole, Lead 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

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Family Independence Program (FIP) | <input checked="" type="checkbox"/> Food Assistance Program (FAP) |
| <input type="checkbox"/> State Disability Assistance (SDA)            | <input type="checkbox"/> Child Development and Care (CDC)         |
| <input type="checkbox"/> Medical Assistance (MA)(AMP)                 |   |

benefits that the Department is entitled to recoup?

2. Did Respondent commit an Intentional Program Violation (IPV)?

3. Should Respondent be disqualified from receiving

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Family Independence Program (FIP) | <input checked="" type="checkbox"/> Food Assistance Program (FAP) |
| <input type="checkbox"/> State Disability Assistance (SDA)            | <input type="checkbox"/> 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 22, 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 period of December 2009, through March 2010.
4. Respondent was a recipient of  FIP  FAP  SDA  CDC  MA AMP benefits during the period of December 2009 through March 2010.
5. Respondent  was  was not aware of the responsibility to report change of address and relocation out of state.
6. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
7. The Department's OIG indicates that the time period they are considering the fraud period is the period set forth in paragraphs 3 and 4 above.
8. During the alleged fraud period, Respondent was issued \$1312 in  FIP  FAP  SDA  CDC  MA benefits from the State of Michigan.
9. During the alleged fraud period, Respondent was issued \$1609 in  FIP  FAP  SDA  CDC  AMP MA benefits from the State of Michigan.
10. The total overissuance sought is \$2921 for the period December 2009 through March 2010.
11. Respondent was entitled to \$0 in  FIP  FAP  SDA  CDC  AMP during this time period.
12. Respondent  did  did not receive an OI in the amount of \$1312 (FAP) and \$1609 (FIP) under the  FIP  FAP  SDA  CDC  MA program(s).
13. The Department  has  has not established that Respondent committed an IPV.

14. Respondent  did  did not receive an OI in the amount of \$1312 (FAP) and \$1609 (FIP) under the  FIP  FAP  SDA  CDC  MA AMP program.

15. This was Respondent's  first  second  third IPV.

16. 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, the Department 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 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,
  - 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. 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 case the evidence demonstrated that the Respondent applied for FAP and FIP benefits and moved to Windsor, Ontario. On and after November 2009 Respondent resided in Windsor, Ontario. Respondent's residency in Windsor, Ontario was established by an email from the Ontario Department of Social Services indicating that the Respondent was added to her husband's assistance case in December 2009 and also continued to receive benefits from the State of Michigan. As of the date of the email, March 18, 2010, the Claimant was still living in Windsor, Ontario. Exhibit 1, pp 42. The Department also established that during this period the Respondent continued to receive FIP and FAP benefits and did not report her change of address nor advise the Department she was no longer living in Michigan. The Claimant applied for FAP benefits in the State of Michigan in July 2009 indicating she was living Dearborn, Michigan and represented in the application that she and her household intended to stay in Michigan. The Claimant was also living in Toronto, Ontario in spring 2009. The Respondent's case was closed by her in March 2010.

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 alleges that Respondent committed an IPV of her FIP cash assistance and Food Assistance (FAP) benefits because Respondent failed to notify the Department that she no longer resided in Michigan, but continued to receive and use Michigan-issued FIP and FAP benefits while out of state. To be eligible for FAP benefits issued by the Department, an individual must be a Michigan resident. BEM 220 (July 1, 2009 and January 1, 2012), p 1. A person is considered a resident while living in Michigan for any purpose other than a vacation, even if she has no intent to remain in the state permanently or indefinitely. BEM 220, p 1. A client who resides outside the State of Michigan for more than thirty days is not eligible for FIP or FAP benefits issued by the State of Michigan. BEM 212 (October 1, 2008), pp 2-3.

The Department established that from November 2009 through March 2010, the Claimant received FAP and FIP benefits for 5 months without reporting that she was living in Windsor, Ontario. Additionally, the Department established that the Respondent began to receive benefits on her husband's case in Canada in December 2009 yet did not report her change of address and only closed her case in March 2010. It is determined that this evidence is sufficient to establish that Respondent no longer resided in Michigan and was no longer eligible for FIP and FAP benefits and that the Department has established an IPV of both the FAP and FIP programs by clear and convincing evidence that Respondent intentionally withheld or misrepresented information for the purpose of maintaining benefits.

#### Disqualification

A court or hearing decision that finds a client committed an 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 a first IPV of FAP benefits, Respondent is therefore subject to a one year FAP and one year FIP disqualification. BAM 720, p 13.

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 (December 1, 2011), 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 (December 1, 2011), pp 1, 5; BAM 705 (December 1, 2011), p 5.

At the hearing, the Department established that \$1312 in FAP benefits and \$1609 in FIP benefits were issued by the State of Michigan to Respondent from December 2009 to March 2010. The Department alleges that Respondent was eligible for \$0 in FAP and \$0 in FIP benefits during this period.

In support of its FAP OI case, the Department presented Respondent's FAP transaction history showing her use of FAP benefits issued by the State of Michigan while claimant was no longer residing in Michigan. Respondent became ineligible for FAP benefits and FIP benefits once it was established that the Respondent was ineligible because she was no longer a Michigan resident for more than 30 days. See BEM 212, pp 2-3.

Therefore, the Department is entitled to recoup \$1312 in FAP benefits and \$1609 in FIP benefits. issued to Respondent between December 2009 and March 2010.

BEM 220 provides :

A person is a resident if **all** of the following apply:

Is not receiving assistance from another state.

Is living in Michigan, except for a temporary absence.

Intends to remain in the state permanently or indefinitely.

**DECISION AND ORDER**

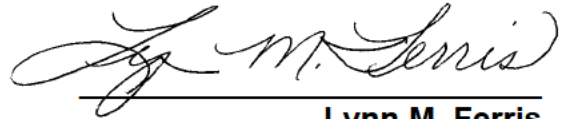
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, concludes that:

1. Respondent  did  did not commit an IPV.
2. Respondent  did  did not receive an OI of program benefits in the amount of \$1619 FIP and \$1312 FAP from the following program(s)  FIP  FAP  SDA  CDC  MA/AMP.

The Department is ORDERED to initiate recoupment procedures for the amount of \$2921 in accordance with Department policy.

It is FURTHER ORDERED that Respondent be disqualified from

FIP  FAP  SDA  CDC for a period of  
 12 months.  24 months.  lifetime.



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

Date Signed: May 9, 2013

Date Mailed: May 9, 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:

