

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-29623  
Issue No.: 3055  
Case No.: [REDACTED]  
Hearing Date: June 19, 2013  
County: Macomb-36

**ADMINISTRATIVE LAW JUDGE:** Vicki L. Armstrong

**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 June 19, 2013, from Lansing, Michigan. The Department was represented by [REDACTED] [REDACTED] of the Office of Inspector General (OIG). Respondent and her daughter appeared and provided testimony.

**ISSUES**

1. Did Respondent receive an over-issuance (OI) of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?
2. Did Respondent commit an Intentional Program Violation (IPV)?
3. Should Respondent be disqualified from receiving 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 February 21, 2013 to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. The OIG has requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of FAP benefits during the period of April 30, 2009, through December 31, 2010.

4. Respondent was aware of the responsibility to notify the department on any changes in circumstances within 10 days.
5. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. On February 16, 2011, the department received verification of unreported earned income for Respondent's daughter through Wage Match. The verification indicated that Respondent's daughter had earned income from [REDACTED] [REDACTED] in February and March, 2010.
7. On April 11, 2011, the department received verification of unreported earned income for Respondent's husband through Wage Match. The verification indicated Respondent's husband was employed at [REDACTED] from August 11, 2009 through November 12, 2010.
8. The Department's OIG indicates that the time period they are considering the fraud period is June 1, 2010 through December 31, 2010.
9. During the alleged fraud period, Respondent was issued \$ [REDACTED] in FAP benefits from the State of Michigan.
10. Respondent was entitled to \$ [REDACTED] in FAP during this time period.
11. Respondent did receive an OI in the amount of \$ [REDACTED] under the FAP program.
12. The Department has established that Respondent committed an IPV.
13. This was Respondent's first IPV.

### **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.

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.

In this case, Respondent's daughter testified that she moved out of Respondent's home in February, 2010, and she was only using Respondent's address for her mail. However, Respondent listed her daughter and husband on her 2009 FAP application

and on the subsequent Redeterminations dated 1/21/10 and 2/15/11 , as members of her household but did not list their earned income.

Therefore, the department has established by clear and convincing evidence that Respondent intentionally failed to report all income. Respondent's signature on this application certifies that she was aware that fraudulent participation in FAP could result in criminal or civil or administrative claims. Because of Respondent's failure to report all income, she received an overissuance of \$ [REDACTED] and the department is entitled to recoup.

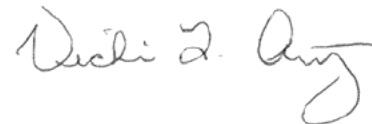
**DECISION AND ORDER**

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 commit an IPV.
2. Respondent did receive an OI of FAP program benefits in the amount of \$ [REDACTED]

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.



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Vicki L. Armstrong  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: June 19, 2013

Date Mailed: June 19, 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.

VLA/las

cc: [REDACTED]

