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

IN TH	E MAT	TER OF:	Reg. No: Issue No:	2013-30776 3055		
I	I		Case No: Hearing Date: Wayne-17 Coun	May 28, 2013		
ADMI	ADMINISTRATIVE LAW JUDGE: Corey A. Arendt					
	HE	ARING DECISION FOR INTENTIONAL	. PROGRAM VIO	<u>LATION</u>		
and M hearin Lansir	ICL 400 ig. Afte ng, Micl	s before the undersigned Administ rative 0.37 upon the Departm ent of Human Se er due notice, a telephone hearing w higan. The Depart ment was represente neral (OIG).	ervic es' (Departm vas he <u>ld on May 2</u>	ent) request for a		
Respondent did not appear at the hearing and it was he ld 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).						
<u>ISSUES</u>						
1.		Did Respondent receive an overissuan Program (FIP) Solved Assistance Program (SDA) Child Development Department is entitled to recoup?	ogram (FAP)	State Disa bility		
	2.	Did Respondent commit an Intentional	Program Violatior	ı (IPV)?		
	3.	Should Respondent be di squalifie Independence Program (FIP), State Dis ability Assistance (SDA), (CDC)?	ood Assistance	Program (FAP),		
FINDINGS OF FACT						
The A	The Administrative Law Judge, based on t he competent, material, and substantial					

 The Department's OIG filed a hearing request on February 14, 2013 to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.

evidence on the whole record, finds as material fact:

2.		The OIG $\boxtimes$ has $\square$ has not reques ted that Respondent be disqualified from receiving program benefits.
	3.	Respondent was a recipient of $\ \square$ FIP $\ \boxtimes$ FAP $\ \square$ SDA $\ \square$ CDC benefits during the period of December 1, 2009 through July 31, 2010.
4.		Respondent $\boxtimes$ was $\square$ was not aware of the res $\square$ ponsibility to report all changes within 10 days.
	5.	Respondent had no appar ent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
	6.	The Department's OIG indicates that the time period they are considering the fraud period is December 1, 2009 through July 31, 2010.
	7.	During the alleged fraud period, Respondent was issued \$ ☐ in ☐ FIP ☐ FAP ☐ SDA ☐ CDC benefits from the State of Michigan.
	8.	Respondent was entitled to \$0.00 in $\ \ \Box$ FIP $\ \ \Box$ FAP $\ \ \Box$ SDA $\ \ \Box$ CDC during this time period.
	9.	From December 1, 2009 through July 31, 2010, the Respondent received concurrent FAP benefits from the State of G eorgia and the state of Michigan.
10.		Respondent  did  did not receive an OI in the amount of  under the  FIP  FAP  SDA  CDC program.
11.		The Department $\boxtimes$ has $\  \   \Box$ has not establish ed that Respondent committed an IPV.
	12.	This was Respondent's ⊠ first ☐ second ☐ third IPV.
	13.	A notice of disqualification hearing was mailed to Respondent at the last known address and $\square$ was $\boxtimes$ was not returned by the US Post Office as undeliverable.

## **CONCLUSIONS OF LAW**

Department policies are contained in the Br idges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The FAP [formerly known as the Food Stamp (F S) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in T itle 7 of the Code of Federal Regulations (CF R). 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 t o report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, and
- The client was clearly and co rrectly 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 sus pected when there is clear and convinc ing evidenc e that the client has intentionally withheld or misr epresented 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 overissuanc es 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 overissuanc e amount is \$1000 or more, or the total overissuance amount is less than \$1000, and
  - The group has a previous IPV, or
  - The alleged IPV involves FAP trafficking, or
  - The alleged fraud inv olves conc urrent receipt of assistance (see BEM 222), or
  - The alleged fraud is com mitted by a state/government employee.

A court or hearing decision that finds a client committed an IP V 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 who commit an IPV are disqualified for a standard di squalification period except when a court orders a different period. Clients are disqualifi ed for periods of one year for the first IPV, two years for the second IPV, lifet ime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720.

Concurrent receipt of benefits means ass istance received from multiple programs to cover a person's needs for the same time per iod. BEM 222, p 1. A per son cannot receive FAP in more than one State for any month. BEM 222, p 2. Generally, a client is responsible for reporting any change in c ircumstances that may affect eligibility or benefit level within ten days of the change. BEM 105, p 7. For example, moving from one State to another, or informing the agency that benefits are also being concurrently received from another State.

Based on the credible testimony and other evidence presented, I have conc luded the OIG established, under the cl ear and convincing st andard, that Respondent committed an IPV in this matter. As at no time did the Respondent inform the Department of her move to the State of Geor gia and her subsequent receipt of dual assistanc e as she knew she was required to do in order to receive additional benefits.

#### **DECISION AND ORDER**

have concluded.	based upon the a	above Findings	of Fact and	Conclusions	of Law
<b>,</b>					

1.	Respondent ⊠ did ☐ did not commit an IPV.
2.	Respondent \( \sum \) did \( \sum \) did not rec eive an overissuanc e of program benefits in the amount of \$ from the following program(s) \( \sum \) FIF \( \sum \) FAP \( \sum \) SDA \( \sum \) CDC.
	nent is ORDERED to initiate recoupment procedures for the amount of cordance with Department policy.
lt is FURT H	FR ORDERED that Respondent be disqualified from FAP for a period of

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

Date Signed: May 29, 2013

10 years.

Date Mailed: May 29, 2013

## 2013-30776/CAA

**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



