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

IN THE MATTER OF:

Reg. No: 2013-30858
Issue No: 3055
Case No:
Hearing Date: May 28, 2013
Wayne-17 County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 May 28, 2013, from Lansing, Michigan. The Department was represented by ▮▮▮▮ ▮ 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 ☐ Family Independence Program (FIP), ☒ Food Assistance Program (FAP), ☐ State Disability Assistance (SDA), ☐ Child Development and Care (CDC) 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 February 14, 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 reques ted that Respondent be disqualified from receiving program benefits.

      3.   Respondent was a recipient of F AP ben efits from De cember 1, 2009 through June 30, 2010.

4.   Respondent ☒ was ☐ was not aware of the res 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 the time period they are considering the fraud period is December 1, 2009 through June 30, 2010.

      7.   During the alleged fraud period, Respondent was is sued $▮▮▮ in F AP benefits from the State of Michigan.

8.   Respondent was entitled to $0 in ☐ FIP ☒ FAP ☐ SDA ☐ CDC during this time period.

9.   Respondent ☒ did ☐ did not receive an OI in the amount of $▮▮▮ in FAP benefits.

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 disqualification 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 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 impl emented by the federal regulations contained in T itle 7 of t he Code of Federal Regulations (CF R). The Department (formerly known as the Fa mily Independence Agenc y) admin isters 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 abili ty 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 t he purpose of establishing, maintaining, increasing or preventing reduc tion of program benefits or eligibility. BAM 720.

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 gr oup 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 fo r the second IPV, lifet ime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720.

Here the OIG provided unequivocal evidence that Respondent became a resident of California as early as November 5, 2009 when the Respondent began us ing his EBT card exclusively outside the st ate of Califor nia. On that date, the Respondent was no longer eligible to receive FAP benefits. BEM 220, p. 1.

Based on the credible testimony and other evidenc e presented, I have conc luded the OIG established, under the cl ear and convincing st andard, that Respondent committed an IPV in this matter. At no time did the Respondent inform the Department of his move to California as he knew he was required to do in order to receive additional benefits.

DECISION AND ORDER

I have concluded, based upon the above Findings of Fact and Conclusions of Law:

1.   Respondent ⊠ did ☐ did not commit an IPV.

   2. Respondent ⊠ did ☐ did not receive an overiss uance of program benefits in the amount of $ ███ from the following program(s) ☐ FIP ⊠ FAP ☐ SDA ☐ CDC.

The Depar tment is ORDERED t o initiate recoupment procedures for the amount of $███ in accordance with Department policy.

It is FURT HER ORDERE D that Respo ndent be disqualified from FAP for a period of 1 year.

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

Date Signed: <u>May 29, 2013</u>

Date Mailed: <u>May 29, 2013</u>

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 fo r the county in which he/she lives.

CAA/las

cc: