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

IN THE MATTER OF:		Reg. No: Issue No:	2013-32681 3055	
		Hearing Date: Gladwin Count	June 11, 2013	
ADMINISTR	ATIVE LAW JUDGE: Corey A.	Arendt		
<u>HE</u>	ARING DECISION FOR INTEN	TIONAL PROGRAM VI	<u>OLATION</u>	
and MCL 400 hearing. After	s before the undersigned Admin 0.37 upon the Departm ent of H er due notice, a telephone he higan. The Department was re neral (OIG).	uman Servic es' (Depart aring was held <u>on June</u>	ment) request for a	
	ent did not appear at the hearin CFR 273.16(e), Mich Admin C			
<u>ISSUES</u>				
1. Did	Respondent receive an ov Program (FIP), Food Assis Assistance (SDA), Child De the Department is entitled to re	tance Program (FAP), evelopm ent and Care (0	State Dis ability	
2.	Did Respondent commit an Inte	entional Program Violati	on (IPV)?	
3.	Should Respondent be di Independence Program (FIP), State Dis ability Assistance (CDC)?	∑ Food Assistanc	e Program (FAP),	
	<u>FINDINGS</u>	OF FACT		
	trative Law Judge, based on t the whole record, finds as mate	he competent, materia rial fact:	ıl, and substantial	
1.	The Department's OIG filed	a hearing request on Ma	arch 4, 2013 to	

establish an OI of benefits received by

Respondent having allegedly committed an IPV.

Respondent as a result of

CONCLUSIONS OF LAW					
	12.	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.			
	11.	This was Respondent's \boxtimes first \square second \square third IPV.			
10.		The Department \boxtimes has $\ \ \Box$ has not establish ed that Respondent committed an IPV.			
9.		Respondent \boxtimes did \square did not receive an OI in the amount of \$ FAP benefits.			
8.		Respondent was entitled to \$0 in \Box FIP \boxtimes FAP \Box SDA \Box CDC during this time period.			
	7.	During the alleged fraud period, Respondent was is sued \$ in F AP benefits from the State of Michigan.			
	6.	The Department's OIG indicates the time period they are considering the fraud period is October 1, 2010 thr ough October 31, 2010, February 1, 2011 through March 31, 2011, June 1, 2011 through June 30, 2011 and September 1, 2011 through February 29, 2012.			
	5.	Respondent had no appar ent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.			
4.		Respondent \boxtimes was \square was not aware of the res ponsibility to report all changes within 10 days.			
	3.	Respondent was a recipient of FAP benefits from October 1, 2010 through February 29, 2012.			
2.		The OIG \boxtimes has \square has not reques ted that Respondent be disqualified from receiving program benefits.			

CONCLUSIONS OF LAW

Department policies are contained in the Bri dges 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.

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 disqualification period except when a court orders a different period. Clients are disqualified 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.

Here the OIG provided unequivocal evidence that Respondent was no longer a resident of Michigan when the Respondent began usi ng his EBT card exc lusively outside the state of Michigan during seve ral lengthy time periods each exceeding 60 days in duration. During those times, the Res pondent was no longer eligible to receive F AP benefits. BEM 220, p. 1.

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. At no time did the Respondent inform the Department of his move out of state as he knew he was required to do in order to receive additional benefits.

DECISION AND ORDER

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

It is FURT HER ORDERED that Respondent 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: June 12, 2013

Date Mailed: June 12, 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 fo r the county in which he/she lives.

CAA/las

CC:

