# 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:	2013-4620 3055	
			Case No: Hearing Date: Oakland County	April 2, 2013 / DHS	
ADMINISTRATIVE LAW JUDGE: Corey A. Arendt					
	HE	ARING DECISION FOR INTENTIONAL	_ PROGRAM VIC	DLATION	
and M hearir Michi	ICL 40 ng. Afte	s before the undersigned Administ rative 0.37 upon the Departm ent of Human Seer due notice, a telephone hearing was the Department was represented by G).	ervic es' (Departn <u>held on A</u> p ril 1, 2	nent) 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 overissuar Program (FIP),  Food Assistance Program (SDA),  Child Developm the Department is entitled to recoup?	rogram (FAP),	State Dis ability	
	2.	Did Respondent commit an Intentional	Program Violatio	n (IPV)?	
	3.	Should Respondent be di squalific Independence Program (FIP), State Dis ability Assistance (SDA), (CDC)?	ood Assistance	Program (FAP),	
FINDINGS OF FACT					
The A	dminis	trative Law Judge, based on t he cor	npetent, material	, and substantial	

 The Department's OIG filed a hearing request on September 24, 2012 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 rec ipient of FAP benefits during the period of May 19, 2011 through April 30, 2012.
	4.	From August 30, 2011 through April 30, 2012, the Claimant failed to report her employment at ABBA Health Care.
5.		Respondent $\boxtimes$ was $\square$ was not aware of the res ponsibility to report all changes within 10 days.
	6.	Respondent had no appar ent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
	7.	The Department's OIG indicates t hat the time period they are considering the fraud period is November 1, 2011 through April 30, 2012.
	8.	During the alleged fraud period, Respondent was is sued \$ in F AP benefits.
	9.	During the alleged fraud period, Re spondent was entitled to \$ in FAP benefits.
10.		The Department $\boxtimes$ has $\  \   \Box$ has not establish ed that Respondent committed an IPV.
	11.	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**

The Food Assistanc e Program (FAP) (formerly known as the Food Stamp (FS) program) is establis hed by the Food St amp 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 of Human Services (DHS or Department) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In this case, the Department has requested a disqualification hearing to establish an over issuance of benefits as a result of an IPV and the Department has as ked that the respondent be disqualified from receiving benefits. The Department's manuals provide the following relevant policy statements and instructions for Department caseworkers.

When a customer client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over issuance. BAM 700. A suspected intentional program violation means an over issuance where:

- the client intentionally fa iled to report information on 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 ph ysical or mental impairment that limits his or her understand ing or ability to fulfill their reporting responsibilities.

The Department suspects an intentional program violation when the client has intentionally withheld or misr epresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the client acted intentionally for this purpose. BAM 720.

The Department's Office of Inspector Gene ral processes intentional program hearings for over issuances referred to them for invest igation. The Office of Inspector General represents the Department during the hearing process. The Office of Inspector General requests intentional program hearings for cases when:

- benefit over issuances 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 over issuanc e amount is \$1000 or more, or
  - the total over issuance 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 in receipt of assistance.
    - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an intentional program violation 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 that commit an intentional program violation are disqualified for a standard disqualification period except when a court orders a different per iod. Clients are disqualified for periods of one y ear for the first IPV, two years for the second IPV, lifetime dis qualification for t he third IPV, and ten y ears fo r a concurrent receipt of benefits. BAM 720. This is the respondent's first intentional program violation.

Based on the credible testimony and other evidence presented, I have concluded the OIG established, under the clear and convincing st andard, that Respondent committed an IPV in this matter. As at no time did the Respondent inform the Department of her employment and income as she knews he was required to do in order to receive additional benefits.

#### **DECISION AND ORDER**

I find	hased	unon the	ahove	Findings	of Fact an	d Conclusions	of Law
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1.	Respondent ⊠ did ☐ did not commit an IPV
2.	Respondent
	nent is ORDERED to initiate recoupment procedures for the amount of cordance with Department policy.

It is FURT HER ORDERED that Respondent be disqualified from F AP for a period of 12 months.

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

Date Signed: April 3, 2013

Date Mailed: April 3, 2013

## 2013-4620/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



