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

IN THE MAT	TER OF:	Reg. No: Issue No:	2013-5534 3055		
		Case No: Hearing Date:			
		Jackson County	•		
ADMINISTR	ATIVE LAW JUDGE: Corey A. Arendt				
<u>HE</u>	ARING DECISION FOR INTENTIONAL	PROGRAM VIC	DLATION		
This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Departm ent of Human Servic es' (Department) request for a hearing. After due notice, a telephone hearing was held on March 13, 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 he ld in Respondent's a bsence 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),  Food Assistance Pr Assistance (SDA),  Child Developm the Department is entitled to recoup?	rogram (FAP),	State Dis ability		
2.	Did Respondent commit an Intentional	Program Violation	n (IPV)?		
3.	Should Respondent be di squalifie Independence Program (FIP), State Dis ability Assistance (SDA), (CDC)?	ood Assistance	Program (FAP),		
FINDINGS OF FACT					

The Administrative Law Judge, based on t he competent, material, and substantial evidence on the whole record, finds as material fact:

The Depar tment's OIG filed a hearing re establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.

2.		The OIG $\boxtimes$ has $\square$ has not reques ted that Respondent be disqualified from receiving program benefits.
	3.	Respondent was a recipient of FAP benefits from July 1, 2011 through January 31, 2012.
4.		Respondent $\boxtimes$ was $\square$ 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 July 1, 2011 through January 31, 2012.
	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 $\hfill \square$ FIP $\hfill \square$ FAP $\hfill \square$ SDA $\hfill \square$ CDC during this time period.
9.		Respondent $\boxtimes$ did $\square$ did not receive an OI in the amount of \$ FAP benefits.
10.		The Department $\square$ has $\square$ has not establish ed 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 $\boxtimes$ was $\square$ 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 (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 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 evidence 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 became a resident of North Carolina as early as May 20, 2011 when the Respondent began us ing his EBT card exclusively in North Carolina. On that date, the Respondent was no longer eligible to receive FAP 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 ti me did the Respondent inform the Department of her move to North Carolina as he knew he was required to do in order to receive additional benefits.

## **DECISION AND ORDER**

I hav	ve concl	uded,	based	upon th	ie above	Findings	of Fac	t and	Conc	lusions	of	Law:
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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.

/s/

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

Date Signed: March 14, 2013

Date Mailed: March 14, 2013

**<u>NOTICE</u>**: 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:

