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

#### IN THE MATTER OF:



Reg.	No:
Issue	No:

2013-5714 3055

Hearing Date: April 2, 2013 Oakland County DHS

### ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

### HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

This matter is before the undersigned Administ rative 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 April 2, 2013, from Lansing, Michigan. The Department was represented by **Example 1** of the Office of Inspector General (OIG).

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).

#### **ISSUES**

- 1. Did Respondent receive an overissuance (OI) of ☐ Family Independence Program (FIP), ⊠ Food Assistance Program (FAP), ☐ State Dis ability Assistance (SDA), ☐ Child Developm ent and Care (CDC) benefits that the Department is entitled to recoup?
- 2. Did Respondent commit an Intentional Program Violation (IPV)?
- 3. Should Respondent be di squalified from receiving ☐ Family Independence Program (FIP), ☐ Food Assistance Program (FAP), ☐ State Dis ability Ass istance (SDA), ☐ Child Dev elopment and Care (CDC)?

# FINDINGS OF FACT

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

1. The Depar tment's OIG filed a hearing re establish an OI of benefits received by 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 August 1, 2011 through April 30, 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 October 1, 2011 through April 30, 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  $\square$  FIP  $\boxtimes$  FAP  $\square$  SDA  $\square$  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  $\square$  first  $\boxtimes$  second  $\square$  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 implemented 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 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 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 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.

Here the OIG provided unequivocal evidence that Respondent became a resident of Georgia as early as August 1, 2011 when the Respondent began using his EBT c and exclusively in Georgia. 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 concluded the OIG established, under the clear 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 Georgia 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  $\boxtimes$  did  $\square$  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 finance with Department policy.

It is FURT HER ORDERED that Respondent be disqualified from FAP for a period of 2 years.

fact

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

Date Signed: April 3, 2013

Date Mailed: April 3, 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 for the county in which he/she lives.

# CAA/las

