

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201310292  
Issue No.: 3055  
Case No.: [REDACTED]  
Hearing Date: [REDACTED]  
County DHS: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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 [REDACTED], from [REDACTED]. The Department was represented by [REDACTED] of the Office of Inspector General (OIG).

Participants on behalf of Respondent included: Donna Sivak and Jeff Sivak.

**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 [REDACTED] 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 requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of  FIP  FAP  SDA  CDC benefits during the period of October [REDACTED] through December [REDACTED].
4. Respondent  was  was not aware of the responsibility to report all household income to the Department.
5. The Claimant submitted verification of employment and income on [REDACTED]
6. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
7. The Department's OIG indicates that the time period they are considering the fraud period is October [REDACTED] through December [REDACTED]
8. During the alleged fraud period, Respondent was issued \$ [REDACTED] in  FIP  FAP  SDA  CDC benefits from the State of Michigan.
9. Respondent  did  **did not** receive an OI in the amount of \$ [REDACTED] under the  FIP  FAP  SDA  CDC program.
10. The Department  has  **has not** established that Respondent committed an IPV.
11. 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp 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 (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.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AAC, Rule 400.3151 through Rule 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

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 to report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, and
- The client was clearly and correctly 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 suspected when there is clear and convincing evidence that the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. BAM 720.

The Department's OIG requests IPV hearings for cases when:

- benefit overissuances 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 overissuance amount is \$1000 or more, or
- the total overissuance 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 involves concurrent receipt of assistance,
  - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an IPV 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, lifetime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720.

The Respondent was an ongoing Food Assistance Program (FAP) recipient. On [REDACTED] [REDACTED] a member of the Respondent's household started receiving new earned income. On [REDACTED], the Department received verification of the Respondent's earned income. This income was not applied towards the Respondent's eligibility determination causing the Respondent to receive Food Assistance Program (FAP) that she was not eligible for.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance (OI). A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. An agency error OI is caused by incorrect action (including delayed or no action) by Department staff. BAM 700.

Suspected IPV means an OI exists for which all three of the following conditions exist:

- The client intentionally failed to report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, and
- The client was clearly and correctly 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 suspected when there is clear and convincing evidence that the client or CDC provider has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. BAM 720.

In this case, the Department has failed to establish by clear and convincing evidence that the Respondent intentionally withheld information of earned income during the alleged fraud period. The Respondent may have failed to fulfill her duty to notify the Department of changes to her circumstance that affected her eligibility to receive benefits within ten days, and the Department may have failed to properly process the information that the Respondent did eventually submit, but neither of these circumstances rise to the level of intentional misconduct.

Therefore, this Administrative Law Judge finds that the Department has failed to establish an intentional program violation (IPV). The Department retains the right to submit this case to a recoupment specialist for further processing as directed by policy.

#### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, concludes that:

1. Respondent DID NOT commit an IPV.
2. The Department is ORDERED to delete the OI and cease any recoupment action.

/s/  
**Kevin Scully**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 03/28/2013

Date Mailed: 03/28/2013

**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 for the county in which he/she lives.

KS/kl

cc:

