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

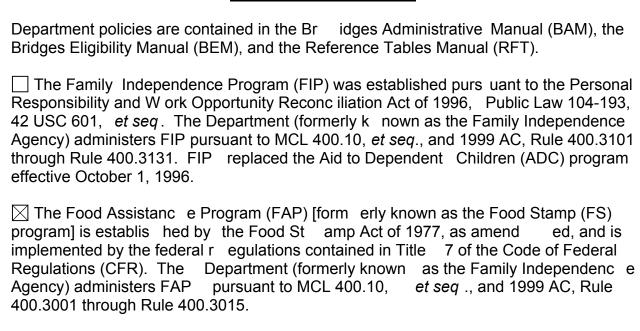
IN	THE MATTER OF:				
		Reg. No.: Issue No.: Case No.: Hearing Date: County:	2013-14409 3055 March 6, 2013 Kent		
Αľ	ADMINISTRATIVE LAW JUDGE: Kevin Scully				
HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION					
This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Departm ent of Human Servic es' (Department) request for a hearing. After due notice, a telephone hearing was held on March 6, 2013 from Lansing, Michigan. The Department was represented by of the Office of Inspector General (OIG).					
Participants on behalf of Respondent included:					
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 overissuance of Family Independence Program (FIP) benefits that the Department is entitled to	` ⊠ Food Assistance	Program (FAP)		
2.	Did Respondent commit an Intentional Program Violation (IPV)?				
3.	. Should Respondent be disqualified from receiving				
	☐ Family Independence Program (FIP)	⊠ Food 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:

1.	The Department's OIG filed a hearing re quest on November 27, 2012, to establis h an OI of benefits received by Respondent as a result of Respondent having received concurrent program benefits and, as such, allegedly committed an IPV.			
2.	The OIG \boxtimes has \square has not requested that Resp ondent be dis qualified fr om receiving program benefits.			
3.	Respondent was a recipient of \boxtimes FAP \square FIP benefits during the period of March 1, 2012, through June 30, 2012.			
4.	On the Assistance Application signed by Respondent on F ebruary 24, 2011, Respondent reported that she/he intended to stay in Michigan.			
5.	Respondent was aware of the responsibility to report changes in her/his residence to the Department.			
6.	Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.			
7.	Respondent began us ing \boxtimes FAP $\ \square$ FIP benefit s outside of the State of Michigan beginning in February of 2012.			
8.	The Office of Inspecto r General indicates that the time period they are considering the fraud period is March 1, 2012, through June 30, 2012.			
9.	During the alleged fr aud period, Respondent was issued $\$ in \boxtimes FAP $\$ \square FIP benefits from the State of Michigan.			
10). During the alleged fraud period, Respondent was issued $\ igtriangledown\ igtriangled$			
11	. The Department \boxtimes has \square has not established that Respondent received concurrent benefits and thus committed an IPV.			
12	2. This was Respondent's ⊠ first □ second □ third IPV.			
13. A notice of disqualificat ion hearing was mailed to Res pondent at the last known address and ☐ was ☒ was not returned by the US Post Office as undeliverable.				

CONCLUSIONS OF LAW



When a client group receives more benefits than they are entitled to receive, DHS 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.

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

- benefit overissuance 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 previ ous intentional program violation, or

- the alleged IPV involves FAP trafficking, or
- the alleged fraud involves c oncurrent receipt of assistance,
- the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed IPV di squalifies 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 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.

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:

	Kevin Scully
<u>/</u>	<u>s/</u>
☑ It is FURTHER O RDERED that Respondent be participation in the F AP program for 10 y ears. This immediately as of the date of this Order.	
The Department is ORDERED to initiate recoupment in accordance with Department policy.	nent procedures for the amount of
2. Respondent ⊠ did ☐ did not receive an OI of prosper from the following program(s) ☒ FAP ☐ F	
1. Respondent ⊠ did ☐ did not commit an IPV.	
of Law, and for the reasons stated on the record, cond	cludes that:

Administrative Law Judge for Maura Corrigan, Director

Department of Human Services

Date Mailed: March 8, 2013

Date Signed: March 8, 2013

2013-14409/KS

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.

KS/las



