STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[redacted]

Reg. No.: 201316571
Issue No.: 2006, 3055
Case No.: [redacted]
Hearing Date: April 17, 2013
County: Eaton

ADMINISTRATIVE LAW JUDGE: ALJ Name

HEARING DECISION

This matter is before the undersigned Administrative Law Judge for an Intentional Program Violation hearing pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Department of Human Services' request. After due notice, a hearing was held on April 17, 2013. Respondent appeared and testified by telephone from [redacted]

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) and whether Respondent received a $[redacted] over-issuance of Medical Assistance (MA) and a $[redacted] over-issuance of Food Assistance Program (FAP) benefits between October 1, 2011 and April 30, 2012 which the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing evidence on the whole record, finds as material fact:

(1) Respondent intentionally failed to report information or gave incomplete or inaccurate information needed to make a correct benefit determination by failing to report her change of physical residence to another state.

(2) Respondent was clearly and correctly instructed regarding reporting responsibilities as evidenced by her signature of the assistance application.

(3) Respondent has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill their reporting responsibilities.

(4) Respondent committed an Intentional Program Violation (IPV) by intentionally failing to report her change of physical residence to [redacted] and continuing to receive and use Food Assistance Program (FAP)

benefits through Michigan when she was no longer a resident of Michigan and no longer eligible for benefits through Michigan.

(5) October 1, 2011 to April 30, 2012 has correctly been determined as the over-issuance period in this case.

(6) As a result of the Intentional Program Violation (IPV) Respondent received a $[redacted] over-issuance of Medical Assistance (MA) and a $[redacted] over-issuance of Food Assistance Program (FAP) benefits during the over-issuance period.

(7) On December 12, 2012, the Office of Inspector General submitted the agency request for hearing of this case.

CONCLUSIONS OF LAW

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 1997 AACS R 400.3001-3015.

In this case, the Department has requested a disqualification hearing to establish an over-issuance of benefits as a result of an Intentional Program Violation (IPV) and the Department has asked that Respondent be disqualified from receiving benefits. Department policies provide the following guidance and are available on the internet through the Department's website.

BAM 720 INTENTIONAL PROGRAM VIOLATIONS
DEPARTMENT POLICY
All Programs

Recoupment policies and procedures vary by program and over-issuance (OI) type. This item explains Intentional Program Violation (IPV) processing and establishment.

BAM 700 explains OI discovery, OI types and standards of promptness. BAM 705 explains agency error and BAM 715 explains client error.

DEFINITIONS
All Programs

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.

IPV
FIP, SDA and FAP
The client/authorized representative (AR) is determined to have committed an IPV by:

- A court decision.
- An administrative hearing decision.
- The client signing a DHS-826, Request for Waiver of Disqualification Hearing or DHS-830, Disqualification Consent Agreement or other recoupment and disqualification agreement forms.

MA and CDC Only

IPV exists when the client/AR or CDC provider:

- Is found guilty by a court, **or**
- Signs a DHS-4350 **and** the prosecutor or the office of inspector general (OIG), authorizes recoupment in lieu of prosecution, **or**
- Is found responsible for the IPV by an Administrative Law Judge conducting an IPV or debt establishment hearing.

Claimant testified that she did inform her Michigan DHS case worker of going to Florida to visit her mother in July 2011. Claimant also testified that she returned to [redacted] and was physically in [redacted] until March 2012. Respondent was asked for an explanation of how she and her [redacted] were in [redacted] but her Electronic Benefit Transfer (EBT) card was used exclusively in Florida from August 22, 2011 until June 20, 2012. Respondent stated she did not use the card in [redacted] to feed herself and her [redacted] Respondent was given the opportunity to submit any evidence she might have to support her assertion that she was [redacted] in [redacted] Respondent submitted two letters from the [redacted] Dated [redacted] and [redacted]. Both letters were mailed to a [redacted] which is different from any of the addresses DHS has on file. The letters were to inform Respondent she may be eligible for UCB under a second extension which Michigan residents were eligible for.

Respondent did not present any credible evidence in support of her assertions.

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, finds that the Department has established by clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV) which resulted in a $1,107.50 over-issuance of Medical Assistance (MA) and a $1,807 over-issuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/

ALJ Name
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/10/13

Date Mailed: 5/13/13

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.

GFH/tb

cc: [redacted]