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:	2013-1825 3055 February 13, 2013 Lake County DHS				
ADMINISTRATIVE LAW J	UDGE: Carmen G.	Fahie					
HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION							
This matter is before the un and MCL 400.37 upon the I nearing. After due notice, February 13, 2013, from La Agent #1082, of the	Departm ent of Hur a tel ephone nsing, Michigan. T	nan Servic es' (Depar e hearing was hel he Department was r	tment) request for a d on Wednesday,				
Participants on behalf o	f Respondent inclu	ded:					
\boxtimes Respondent did not app oursuant to 7 CFR 273.16(400.3178(5).							
<u>ISSUES</u>							
Did Respondent receive	an overissuance (OI) of					
☐ Family Independence ☐ State Disability Assis ☐ Medical Assistance (benefits that the Depart	stance (SDA) MA)		Program (FAP) ent and Care (CDC)				
2. Did Respondent commit	an Intentional Pro	gram Violation (IPV)?					
3. Should Respondent be disqualified from receiving							
☐ Family Independence☐ State Disability Assis			Program (FAP) ent and Care (CDC)?				

FINDINGS OF FACT

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1.	The Department's OIG filed a hearing request on October 1, 2012 to establish an OI of benefits received by Respondent as a result of Respondent thaving alleged by committed an IPV.
2.	The OIG $oxedsymbol{\boxtimes}$ has $oxedsymbol{\square}$ has not requested that Resp $$ ondent be dis qualified fr om receiving program benefits.
3.	Respondent was a recipient of
4.	On the Assistance Application, DHS 1171 and Redetermi nation As sistance Application, DHS 1010, signed by Respondent on J uly 14, 2009 and Nov ember 2, 2009, Res pondent r eported that she/he understood the re sponsibility t o report changes in residence and income to the department within 10 da ys. Department Exhibit 13-33.
5.	Respondent \boxtimes was \square was not aware of the responsi bility to and failed to report changes in residence where the claimant was outside the State of Michigan for more than 30 days in the State of Florida be ginning in March 201 1 and not reporting earned income from Attendant Care Servic es in September 1, 2010. Department Exhibit 34-39.
6.	Respondent had no apparent physical or m ental 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 September 1, 2010 through December 31, 2010 and March 1, 2011 through April 30, 2011.
8.	During the alleged fr aud period, Respondent was issued \$ in ☐ FIP ☒ FAP ☐ SDA ☐ CDC ☐ MA benefits from the State of Michigan.
9.	Respondent was ent itled to \$ $\hfill \hfill \hfil$
10	. Respondent ⊠ did ☐ did not receive an OI in the amount of \$ under the ☐ FIP ⊠ FAP ☐ SDA ☐ CDC ☐ MA program.
11	. The Department $oxtimes$ has $oxtimes$ has not established that Respondent committed an IPV.
12	.This was Respondent's ⊠ first ☐ second ☐ third IPV.
13	. A notice of hearing was mailed to Respondent at the last known address and \square was \boxtimes 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and W ork Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, et seq. The Department (formerly k nown 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 Assistanc e Program (FAP) [form erly known as the Food Stamp (FS) program] is establis hed by the Food St amp 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 D epartment of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, et seq., and 20 00 AACS, Rule 400.3151 through Rule 400.3180.
☐ The Child Development and Care (CDC) program is establis hed by Titles IVA, IVE and XX of the Soc ial 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 Depart ment provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.
☐ The Medical Ass istance (MA) program is es tablished by the Title XIX of the Soc ial Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independ ence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MC L 400.105.
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

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 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 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 over issuances 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 an IP V disqualifies that client from receiving certain program benefits. A disqualified reci pient remains a member of an active group as long as he lives with them. Other eligib le 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, or except when the overissuance relates to MA. Refusal to repay will not cause denial of current or future MA if the client is otherwise eligible. BAM 710. 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.

Additionally, the respondent failed to report her change in residence from Michigan to Florida and her earned income during the contested time period, which resulted in her receiving an overissuance of FAP benefits of \$\frac{1}{2}\

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	\boxtimes did $[$	did not	commit an	IPV
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Respondent did did not receive an OI of prog ram benefits in the amount of from the following program(s) FIP FAP SDA CDC MA.	f
The Department is ORDERED to delete the OI and cease any recoupment action.	
The Department is ORDERED to initiate recoupment procedures for the amount of in accordance with Department policy.	f
The Department is ORDERED to reduce the OI to for the period , in ccordance with Department policy.	n
☑ It is FURTHER ORDERED that Respondent be disqualified from	
☐ FIP ☒ FAP ☐ SDA for a period of ☐ 12 months. ☐ 24 months. ☐ lifetime.	
/ <u>s/</u> Carmen G. Fahie Administrative Law Judge for Maura Corrigan, Directo	e or
Department of Human Services	S

Date Signed: February 20, 2013

Date Mailed: February 20, 2013

NOTICE: The law pr ovides 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.

CGF/hj

CC:

