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

			ER	
	_			

		Reg. No.: Issue No.: Case No.: Hearing Date: County:	2013-19845 3055 March 14, 2013 Benzie
Αľ	OMINISTRATIVE LAW JUDGE: C. Adam F	urnell	
	HEARING DECISION FOR INTENT	IONAL PROGRAM V	IOLATION
an he La	is matter is before the undersigned Adminis d MCL 400.37 upon the Departm ent of Hur aring. After due notice, a telephone hear nsing, Michigan. The Department was repr Inspector General (OIG).	man Servic es' (Depai ing was he <u>ld on Mar</u>	rtment) request for a
	Participants on behalf of Respondent inclu	ıded:	
pu	Respondent did not appear at the hearing rsuant to 7 CFR 273.16(e), Mich Admin Co 0.3187(5).		
	ISSUE	<u> </u>	
1.	Did Respondent receive an overissuance ((OI) of	
	☐ Family Independence Program (FIP) ☐ State Disability Assistance (SDA) ☐ Medical Assistance (MA)		Program (FAP) ent and Care (CDC)
	benefits that the Department is entitled to r	ecoup?	
2.	Did Respondent commit an Intentional Pro	gram Violation (IPV)?	
3.	Should Respondent be disqualified from re	eceiving	
	☐ Family Independence Program (FIP) ☐ State Disability Assistance (SDA) ☐ Medical Assistance (MA)?	∑ Food Assistance ☐ Child Developme ☐ Child Developme	Program (FAP) ent 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:

(The Department's OIG filed a hearing request on December 20, 2012 to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
	The OIG $oxtimes$ has $oxtimes$ has not requested that Resp $$ ondent be dis qualified fr om receiving program benefits.
	Respondent was a rec ipient of $\ \square$ FIP $\ \boxtimes$ FAP $\ \square$ SDA $\ \square$ CDC $\ \square$ MA benefits during the period of March 1, 2007 through May 31, 2007.
[F	Respondent \boxtimes was \square was not aware of the responsibility to timely report to the Department that he had relocated from Michigan to the State of Colorado. Respondent was also aware that it was unlawful to obtain FAP benefits in Michigan while concurrently receiving assistance in Colorado.
	Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
	The Department's OIG indicates that the time period they are considering the fraud period is March 1, 2007 through May 31, 2007.
	During the alleged fraud period, Respondent was issued \$ in ☐ FIP ☒ FAP☐ SDA ☐ CDC ☐ MA benefits from the State of Michigan.
	Respondent was entitled to \$0 in $\ \square$ FIP $\ \boxtimes$ FAP $\ \square$ SDA $\ \square$ CDC $\ \square$ MA during this time period.
	Respondent
10.	The Department \boxtimes has $\ \square$ has not established that Respondent committed an IPV.
11.7	This was Respondent's ⊠ first ☐ second ☐ third IPV.
	A notice of disqualificat ion hearing was mailed to Res pondent at the last known address and \boxtimes was \square 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 purs uant to the Personal Responsibility and W ork Opportunity Reconc iliation 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 amend ed, 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 Disabilit y 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 Developm ent 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 Fede ral Regulations, Parts 98 and 99. The Depart ment provides servic es 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 Independenc e 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

 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

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 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.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. BAM 105. Clients are required to report changes within 10 (ten) days of receiving the first payment reflecting the change. BAM 105. Client some required to report changes in circumstances within 10 (ten) days after the client is aware of them. BAM 105. These changes include, but are not limited to changes regarding: (1) persons in the home; (2) marital status; (3) address and shelter cost changes that result from the move; (4) vehicles; (5) assets; (6) child support expenses paid; (7) health or hospital coverage and premiums; or (8) child care needs or providers. BAM 105.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105. This includes completion of necessary forms. BAM 105. Clients must completely and truthfully ans wer all questions on forms and in interviews. BAM 105. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105.

Concurrent receipt of benefits means assistance received from multiple programs to cover a person's needs for the same time period. BEM 222. Here, Claimant received FAP benefits from Michigan and Colorado during the same time period.

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 ☐ did not commit an IPV 2. Respondent \(\sqrt{} \) did \(\sqrt{} \) did not receive an overissuance of program benefits in the from the following program(s) \square FIP \boxtimes FAP \square SDA \square CDC amount of \$ MA. 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. The Department is ORDERED to reduce the OI to for the period in accordance with Department policy. ☐ It is FURTHER ORDERED that Respondent be disqualified from ☐ FIP ☒ FAP ☐ SDA ☐ CDC for a period of \square 12 months. \square 24 months. \boxtimes 10 years. \square lifetime. IT IS SO ORDERED.

/s/

C. Adam Purnell Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: March 18, 2013

Date Mailed: March 18, 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 for the county in which he/she lives.

CAP/las

CC:

