

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.: 201323216
Issue No.: 2018, 3055
Case No.: [REDACTED]
Hearing Date: April 3, 2013
County: Ingham

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 3, 2013. Respondent did not appear. The record did not contain returned mail. In accordance with Bridges Administration Manual (BAM) 720 the hearing proceeded without Respondent.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) and whether Respondent received a \$ [REDACTED] over-issuance of Medical Assistance (MA) benefits and a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits between March 1, 2011 and August 31, 2011 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 and fraudulently submitting an assistance application in Michigan when she was residing in 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 Arkansas, continuing to receive and use Food Assistance Program (FAP) benefits through Michigan when he was no longer a resident of Michigan and no longer eligible for benefits through Michigan, and submitting a fraudulent assistance application in Michigan when she was not a resident of Michigan.
- (5) March 1, 2011 to August 31, 2011 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) benefits and a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits during the over-issuance period.
- (7) On January 17, 2013, 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.

The Medical Assistance (MA) program is established by the Title XIX of the Social 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 Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

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.

FAP Only

IPV is suspected for a client who is alleged to have trafficked FAP benefits.

**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.

FAP Only

IPV exists when an administrative hearing decision, a repayment and disqualification agreement or court decision determines FAP benefits were trafficked.

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.

BAM 710 RECOUPMENT OF MA OVERISSUANCES DEPARTMENTAL POLICY MA Only

Initiate recoupment of an over-issuance (OI) due to **client error or intentional program violation (IPV)**, **not** when due to **agency error** (see BAM 700 for definitions). Proceed as follows:

- Determine the OI period and amount.
- Determine the OI Type (client error or suspected IPV).
- Initiate recoupment of an OI due to client error.

If IPV is suspected, refer the case to the Office of Inspector General (OIG), if appropriate, by completing a DHS-834, Fraud Investigation Request.

Note: OIs due to IPV are recouped by OIG working directly with the local office fiscal unit.

A detailed analysis of the evidence presented, applicable Department policies, and reasoning for the decision are contained in the recorded record.

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 \$ [REDACTED] over-issuance of Medical Assistance (MA) benefits and a \$ [REDACTED] over-issuance of Food Assistance Program

201323216/GFH

(FAP) benefits between March 1, 2011 and August 31, 2011 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/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 4/26/13

Date Mailed: 4/29/13

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:

