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

IN THE MATTER OF:

[redacted]

Reg. No.: 2013-4626
Issue No.: 1052; 3055; 6052
Case No.: [redacted]
Hearing Date: May 21, 2013
County: Wayne #35

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

AMENDED 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 Department of Human Services' (Department) request for a hearing. After due notice, a telephone hearing was held on Tuesday, May 21, 2013, from Lansing, Michigan. The Department was represented by David Vergison, Agent #154, of the Office of Inspector General (OIG).

☒ Participants on behalf of Respondent included: Respondent, Respondent's daughter, [redacted], Respondent's husband, [redacted], and Respondent's attorney, John Brewster, P# 36920.

☐ Respondent did not appear at the hearing and it was held in Respondent's absence pursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5).

ISSUES

1. Did Respondent receive an overissuance (OI) of

   ☒ Family Independence Program (FIP) ☒ Food Assistance Program (FAP)
   ☐ State Disability Assistance (SDA) ☒ Child Development and Care (CDC)
   ☐ Medical Assistance (MA)
   benefits that the Department is entitled to recoup?

2. Did Respondent commit an Intentional Program Violation (IPV)?

3. Should Respondent be disqualified from receiving

   ☒ Family Independence Program (FIP) ☒ Food Assistance Program (FAP)
   ☐ State Disability Assistance (SDA) ☒ Child Development and Care (CDC)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department's OIG filed a hearing request on October 8, 2012 to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.

2. The OIG ☒ has ☐ has not requested that Respondent be disqualified from receiving program benefits.

3. Respondent was a recipient of ☒ FIP ☒ FAP ☐ SDA ☒ CDC ☐ MA benefits during the period of CDC from November 26, 2006 through May 26, 2007 and November 25, 2007 through March 28, 2009, FIP and FAP from February 1, 2008 through March 31, 2008..

4. On the Assistance Application, DHS 1171, signed by the Respondent on January 3, 2006, December 30, 2006, and July 23, 2007. Respondent reported that she/he understood the responsibility to report changes in household composition and income to the Department within 10 days. Department Exhibit 12-35.

5. Respondent ☒ was ☐ was not aware of the responsibility to and failed to report changes in household and income composition where she failed to report that she was receiving disability benefits when she was receivign FIP/FAP benefits for February and March 2008. In addition, the Claimant received CDC for school aged children while she was employed at Verizon working days.. Department Exhibit 36-99.

6. Respondent had no apparent physical or mental 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 CDC from November 26, 2006 through May 26, 2007 and November 25, 2007 through March 28, 2009, FIP and FAP from February 1, 2008 through March 31, 2008..

8. During the alleged fraud period, Respondent was issued [redacted] ☒ FIP ☒ FAP ☐ SDA ☒ CDC ☐ MA benefits from the State of Michigan.

9. Respondent was entitled to [redacted] in ☒ FIP ☒ FAP ☐ SDA ☒ CDC ☐ MA during this time period.

10. Respondent ☒ did ☐ did not receive an OI in the amount of $11,138 under the ☒ FIP ☒ FAP ☐ SDA ☒ CDC ☐ MA program.

11. The Department ☒ has ☐ 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 ☐ was ☒ was not returned by the US Post Office as undeliverable.

14. During the hearing the record was left open for the respondent to provide written verification of her work hours at Verizon for the contested time period that was due on May 28, 2013 or the Department action would stand.

15. On June 10, 2013, the Department caseworker sent this Administrative Law Judge a notice that to this date no documentation had been received from the respondent's attorney or the respondent and the record was closed.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges 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 Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq*. The Department (formerly known 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 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 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 Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq*., and 2000 AACS, Rule 400.3151 through Rule 400.3180.

☒ The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social 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 Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

☐ 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.

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 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 has intentionally withheld or misrepresented 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 overissuances 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 previous intentional program violation, or
  - the alleged IPV involves FAP trafficking, or
  - the alleged fraud involves concurrent receipt of assistance,
  - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an IPV disqualifies that client from receiving certain 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, 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, lifetime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720.

Additionally, the respondent failed to report that she was receiving disability benefits while receiving FIP and FAP. As a result, the respondent committed an IPV and received an overissuance of FIP [redacted] and FAP of [redacted]. In addition, the Claimant received CDC benefits, but she had school age children and she worked during the day. As a result, the Claimant received an overissuance of CDC of [redacted] Therefore, the Department has met their burden that the Claimant committed an IPV and received an overissuance of FIP, FAP, and CDE benefits during the contested time period, which the Department is required to recoup.

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 ☒ did ☐ did not receive an OI of program benefits in the amount of [redacted] from the following program(s) ☒ FIP ☒ FAP ☐ SDA ☒ CDC ☐ 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 [redacted] 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 for a period of
☒ 12 months. ☐ 24 months. ☐ lifetime.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 07/05/2013

Date Mailed: 07/05/2013

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.

20134626/CGF

CGF/hj

cc: [redacted]