

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-8670  
Issue No.: 3055  
Case No.: [REDACTED]  
Hearing Date: May 21, 2013  
County: Wayne County DHS #17

**ADMINISTRATIVE LAW JUDGE:** Landis Y. Lain

**HEARING DECISION**

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 May 21, 2013 from Lansing, Michigan. The Department was represented by [REDACTED] Regulation Agent, of the Office of Inspector General (OIG). Respondent did not appear at the hearing and it was held in Respondent's absence pursuant to 7 CF R 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5).

**ISSUES**

Whether Respondent committed an Intentional Program Violation (IPV) and receive Food Assistance Program (FAP) benefits that the department is entitled to recoup?

**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 to establish an OI of benefits received by Respondent as a result of Respondent having failed to timely report employment and earnings from Liberal Manor, Inc., and, as such, allegedly committed an IPV.
2. The OIG has requested that Respondent be disqualified from receiving program benefits.
3. Respondent filed application with the department 3/20/07, acknowledging that s/he understood his rights and responsibilities to report changes in household circumstances.
4. Respondent used his Michigan EBT card out of state from 10/01/10-3/31/11 and 9/01/11-4/30/12.

5. A Wage Match indicated that Respondent was earning income from [REDACTED] [REDACTED] from 1/01/08-9/30/08.
6. Respondent was aware of the responsibility to report changes in her/his circumstances to the Department.
7. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
8. Respondent received a FAP over-issuance in the amount of \$ [REDACTED] for the time period of 2/01/08-9/30/08.
9. Respondent received a FIP over-issuance in the amount of \$ [REDACTED] for the time period of 2/01/08-3/31/08.
10. The Department has established that Respondent was entitled to receive FAP or FIP in the amounts that she received because of her earnings, and thus committed an IPV.
11. This was Respondent's first IPV.
12. A notice of hearing was mailed to Respondent at the last known address, where s/he is currently receiving benefits from the department and was not returned by the US Post Office as undeliverable.

### **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.

When a client group receives more benefits than they are entitled to receive, DHS 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 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
  - 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 IPV 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, or except when the over-issuance 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.

In the instant case, the department OIG has established that the Respondent received an overissuance of FAP benefits in the amount of \$ [REDACTED] for the time periods of 2/01/08-9/30/08 and an over-issuance of FIP benefits in the amount of \$ [REDACTED] for the time

period 2/01/08-3/31/08. The department OIG has established by the necessary competent, substantial and material evidence on the record that claimant committed an Intentional Program Violation for the Food Assistance Program and the Family Independence Program for which respondent must be disqualified. The department has established that Respondent was aware of the responsibility to report all income and employment to the department. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within ten days. BAM, Item 105, p. 7. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities.

**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 commit an IPV.
2. Respondent did receive an OI of program benefits in the amount of \$ [REDACTED] from the Food Assistance Program.
3. Respondent did receive an OI of program benefits in the amount of \$ [REDACTED] from the Family Independence Program.

The Department is ORDERED to initiate recoupment procedures for the amount of \$ [REDACTED] for the Food Assistance Program benefits and \$ [REDACTED] in Family Independence Program benefits in accordance with Department policy.

It is FURTHER ORDERED that Respondent be personally disqualified from participation in the Food Assistance Program for one (1) year. This disqualification period shall begin immediately as of the date of this Order.

/s/  
**Landis Y. Lain**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: May 24, 2013

Date Mailed: May 24, 2013

2013-8670/LYL

**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.

LYL/las

cc:

