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

IN THE MATTER OF:

[redacted]

Reg. No.: 2013-38947
Issue No.: 3052
Case No.: [redacted]
Hearing Date: July 17, 2013
County: Genesee County DHS #6

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 July 17, 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 CFR 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 received an over-issuance 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 allegedly committed an IPV

2. The OIG has requested that Respondent be disqualified from receiving program benefits.

3. Respondent filed an assistance application with the department on 3/28/2010 and 4/22/11, acknowledging that s/he understood her/his rights and responsibilities to report changes in household circumstances.

4. Respondent used her/his Michigan EBT card out of state exclusively from 6/05/10-12/27/10 and 9/03/11-4/30/12.

5. Per post of fice verification respondent established an out of state residency during the relevant period of time.

6. On the Ass istance Applicat ion(s), Respondent reported th at she/he intended to stay in Michigan.

7. Respondent was aware of the responsibility to report changes in her/his residence to the Department.

8. Respondent had no apparent physical or m ental impairment that would limit the understanding or ability to fulfill this requirement.

9. Respondent received a FAP over-issuance in the amount of $[redacted] for the period of 8/01/10-12/31/10 and $[redacted] for the period of 9/03/11-4/30/12.

10. This was Respondent's first IPV.

11. Notice was sent to claimant's la st known addres s and was not returned a s 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 Medical Assistance (MA) program is estab lished by Title XIX of the Social Sec urity Act and is implement ed by T itle 42 of the C ode of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amend ed, and is implemented by the federal regulations contained in Title 7 of the Code of Feder al Regulations (CFR). The Department (formerly known as the Fam ily 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 mo re benefits than they are entit led 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 t o 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 over-issuance 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 over-issuance amount is $1000 or more, or
- the total over-issuance 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 $2200. Evidence on the record indicates that respondent was no longer a resident of the State of Michigan during the relevant time period and used his/her benefits in the state of Massachusetts exclusively during the relevant times. 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 for which respondent must be disqualified.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, determines that clear and convincing evidence establishes, 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.

The Department is ORDERED to initiate recoupment procedures for the amount of $[redacted] for Food Assistance Program.

It is FURTHER ORDERED that Respondent be personally disqualified from participation in the Food Assistance Program for 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: July 18, 2013

Date Mailed: July 19, 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.

LYL/las

cc: [redacted]