

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

IN THE MATTER OF:



Reg. No.: 2013-40279
Issue No.: 3055; 1052
Case No.: [REDACTED]
Hearing Date: July 3, 2013
County: Genesee

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 July 3, 2013, from Lansing, Michigan. The Department was represented by Resident Agent [REDACTED] [REDACTED] 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

1. Did Respondent receive an over-issuance (OI) of Food Assistance Program (FAP) and Family Independence (FIP) program benefits that the Department is entitled to recoup?
2. Did Respondent commit an Intentional Program Violation (IPV)?
3. Should Respondent be disqualified from receiving FAP and FIP?

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 4/16/13 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 was a recipient of FAP benefits during the period of October 1, 2009, through August 31, 2010 and FIP and FAP benefits during the period of October 5, 2010 through March 31, 2011.
4. Respondent was aware of the responsibility to report all household members and all household income.
5. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. The Department's OIG indicates that the time period they are considering the fraud period is October 1, 2009, through March 31, 2011.
7. During the alleged fraud period, Respondent was issued \$ [REDACTED] in FAP benefits and \$ [REDACTED] in FIP benefits from the State of Michigan.
8. Respondent was entitled to -0- FIP and FAP benefits during this time period.
9. Respondent did receive an OI in the amount of \$ [REDACTED] under the FAP program and \$ [REDACTED] under the FIP program.
10. Respondent resided in Ohio from October, 2010 through March, 2011.
11. The Department has established that Respondent committed an IPV.
12. This was Respondent's first FAP and FIP IPV.
13. A notice of hearing was mailed to Respondent at the last known address 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 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.

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 administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program

effective October 1, 1996. Department policies are contained in BAM, the Bridge Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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.

In this case the department alleges Respondent trafficked her FAP benefits because the owners of the Mandingo's African Market at which she used \$1,887.48 dollars of her benefits found guilty of conspiracy to commit food stamp fraud in the US Federal Court, Detroit, MI where they admitted that they were involved in FAP Trafficking at the Market. The Market was a small storefront operation with a limited inventory of qualified food stock and storage space and had one checkout counter with no shopping carts or electronic scanning devices. Multiple DHS clients confessed that they had never personally been at the Market but sold their Bridge cards for 50 cents for every \$1.00 of FAP benefits to persons they met on the street, including religious adherents that may have been connected to the store which was affiliated with a Muslim religious group. Information was also received indicating that the owner of the Mandingo Market also maintained rental houses and individuals were paying their rent with the Bridge cards.

A review of Respondent's EBT history revealed several transactions indicative of FAP trafficking from December, 2009 through August, 2010, totaling \$ [REDACTED] in trafficked benefits. According to departmental policy, the documentation used to establish the trafficking determination can be circumstantial, such as an affidavit from a store owner or sworn testimony from a federal or state investigator of how much a client could have reasonably trafficked in that store. BAM 720, p 7 (2/1/13).

A review of Respondent's EBT history also shows Respondent used her FAP benefits solely in Ohio beginning October 5, 2010 through March 27, 2011. During this time frame, Respondent also received FIP cash benefits. As a result, Respondent received \$ [REDACTED] in FAP benefits and spent \$ [REDACTED] in FIP benefits from December, 2010 through March, 2011 to which she was not entitled.

Based on a review of the evidence, Respondent received an overissuance of FAP benefits and the department is entitled to recoup \$ [REDACTED] and \$ [REDACTED] in FIP benefits.

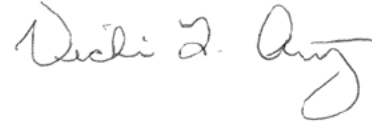
DECISION AND ORDER

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 a FIP and FAP IPV.
2. Respondent did receive an OI of program benefits in the amount of \$ [REDACTED] from the FAP program and \$ [REDACTED] from the FIP program.

The Department is ORDERED to initiate recoupment procedures for the amount of \$ [REDACTED] in accordance with Department policy.

It is FURTHER ORDERED that Respondent be disqualified from the FAP and FIP program for a period of 12 months.



Vicki L. Armstrong
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 26, 2013

Date Mailed: July 26, 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.

VLA/las

cc:

