IN THE MATTER OF:

Reg. No.:	201334983
Issue No.:	
Case No.:	
Hearing Date:	July 16, 2013
County:	Ingham

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 and in accordance with 7 CFR 273.16 and Mich Admin Code, Rule 400.3130 upon the Department of Human Services' (Department) request for a hearing. After due notice, a telephone hearing was held on July 16, 2013, from Lansing, Michigan. The Department was represented by ▆▆▆▆▆ of the Office of Inspector General (OIG).

☐ Participants on behalf of Respondent included:

☒ 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 400.3187(5).

ISSUES

1. Did Respondent receive an overissuance (OI) of
    ☐ Family Independence Program (FIP)   ☒ Food Assistance Program (FAP)
    ☐ 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)

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 March 19, 2013, to establish an OI of benefits received by Respondent as a result of Respondent having received concurrent program benefits and, as such, 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 ☒ FAP ☐ FIP benefits during the period of May 1, 2010, through February 28, 2011.

4. On the Assistance Application signed by Respondent on March 12, 2010, Respondent reported that she/he intended to stay in Michigan.

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

6. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.

7. Respondent began using ☒ FAP ☐ FIP ☐ MA benefits outside of the State of Michigan beginning in March of 2010.

8. The Office of Inspector General indicates that the time period they are considering the fraud period is May 1, 2010, through February 28, 2011.

9. During the alleged fraud period, Respondent was issued ▇▇▇▇ in ☒ FAP ☐ FIP benefits from the State of Michigan.

10. During the alleged fraud period, Respondent was issued ☒ FAP ☐ FIP benefits from the State of Arizona.

11. The Department ☒ has ☐ has not established that Respondent received concurrent benefits and thus committed an IPV.

12. This was Respondent's ☒ first ☐ second ☐ third IPV.

13. A notice of disqualification hearing was mailed to Respondent at the last known address and ☐ was ☒ 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.

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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, or
  - 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 OI 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.

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 ▮▮▮ from the following program(s) ⊠ FAP ☐ FIP ☐ MA.

⊠ The Department is ORDERED to initiate recoupment procedures for the amount of ▮▮▮ in accordance with Department policy.

⊠ It is FURTHER ORDERED that Respondent be personally disqualified from participation in the FAP program for 10 years. This disqualification period shall begin immediately as of the date of this Order.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 07/18/2013

Date Mailed: 07/19/2013

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.

KS/sw

cc: ▮▮▮▮▮▮