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

#### IN THE MATTER OF:



Reg. No.: Issue No.: Case No.: Hearing Date: County: 2013-42942 3055

July 30, 2013 Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

# **HEARING DECISION**

This matter is before the undersigned Admini strative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Departm ent of Human Services (Department) request for a hearing. After due notice, a telephone hearing was held on from Lansing, Michigan. The Department was represented by **Exercise**, Regulation Agen t, of the Office of Inspector General (OIG). Respondent did not appear at the hearing and it was held i n 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 receive d Food Assistance Program (FAP) benefits that the department is entitled to recoup?

### FINDINGS OF FACT

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

- 1. The Depar tment's OIG filed a hearing request to establish an OI of benefits received by Respondent as a result of Respondent having faile d to inform the department that s/he left the state, no longer resided in Michigan, and, as such, allegedly committed an IPV.
- 2. The OIG has requested that Respondent be disqualified from receiving program benefits.
- 3. Respondent filed applic ation(s) with the department on Decem ber 30, 2008, November 30, 2009, Dece mber 8, 2010, acknowl edging that s/he understood his/her rights and responsibilities to report changes in household circumstances.
- 4. Respondent used his /her Michigan EBT card out of state exclusively from December 23, 2010-November 30, 2011.

- 5. On the Assistance Applications signed by Respondent, Respondent reported that she/he intended to stay in Michigan.
- 6. Respondent was aware of the respons ibility to report changes in he r/his residence to the Department.
- 7. Respondent had no a pparent physical or mental impa irment that would limit the understanding or ability to fulfill this requirement.
- 8. Respondent received a FAP ov er-issuance in the amount of \$ for the time period of February 1, 2011-November 11, 2011.
- 9. The Department has established that Respondent was not re siding in Michigan for more than 30 consecutive days, was not entitled to receive FAP benefits, and thus committed an IPV.
- 10. This was Respondent's first IPV.
- 11. A notice of hearing was mailed to Res pondent at the I ast known address, and was not returned by the US Post Office as 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 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 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 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 sus pected when there is clear and convinc ing evidenc e that the client has intentionally withheld or misr epresented information for t he purpose of establishing, maintaining, increasing or preventing reduc tion 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 previ ous intentional program violation, or
    - the alleged IPV involves FAP trafficking, or
    - the alleged fraud involves c oncurrent receipt of assistance,
    - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed IPV di squalifies that client from receiving program benefits. A disqualified recipient r emains a member of an active group as long as he lives with them. Other eligible gr oup members may continue to receive benefits. BAM 720.

Clients who commit an IPV are disqualified for a standard di squalification 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 otherwis e eligible. BAM 710. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifet ime disqualification for the th ird IPV, and ten years for a concurrent receipt of benefits. BAM 720.

In the instant case, th e department OIG has established that the Respondent received an over is suance of FAP benefits in the amount of \$ for the time periods of 2/01/11-11/30/11. Respondent did not reside in the Stat e of Michigan during the relevant time that s/he re ceived FAP benefits from Michig an. 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, and for the reasons stated on the record, concludes that:

1. Respondent did commit an IPV.

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2. Respondent did receive an OI of program benefits in t he amount of **\$** from the Food Assistance Program.

The Department is ORDERED to initiate recoupment procedures for the amount of for the Food Assistance Program 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 disqualific ation period shall begin <u>immediately</u> as of the date of this Order.

<u>/s/</u>

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

Date Signed: August 1, 2013

Date Mailed: August 2, 2013

**NOTICE:** The law pr ovides 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/hj



