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

IN THE MAT	TER OF:	Reg. No: Issue No:	2013-50413 3055
		Case No: Hearing Date: Ingham County	August 7, 2013 DHS
ADMINISTR	ATIVE LAW JUDGE: Corey A. Arendi		
<u>HE</u>	ARING DECISION FOR INTENTIONA	L PROGRAM VIC	<u>DLATION</u>
and MCL 400 hearing. After	s before the undersigned Administ rativ 0.37 upon the Departm ent of Human S er due notice, a telephone hearing w higan. The Department was repr ese neral (OIG).	Servic es' (Departr as held <u>on Aug</u>	ment) request for a
	ent did not appear at the hearing and it CFR 273.16(e), Mich Admin Code R		
	ISSUES		
1. Did	Respondent receive an overissual Program (FIP), Food Assistance F Assistance (SDA), Child Development the Department is entitled to recoup?	Program (FAP),	State Dis ability
2.	Did Respondent commit an Intentiona	l Program Violatio	n (IPV)?
3.	Should Respondent be di squalit Independence Program (FIP), State Dis ability Assistance (SDA) (CDC)?	Food Assistance	Program (FAP),
	FINDINGS OF FA	<u>ct</u>	
	trative Law Judge, based on t he co the whole record, finds as material fact	mpetent, material ::	, and substantial
1.	The Department's OIG filed a hea establish an OI of benefits received by	aring r equest on J / Responden	lune 6, 2013 to

Respondent having allegedly committed an IPV.

2.		The OIG \boxtimes has \square has not reques ted that Respondent be disqualified from receiving program benefits.	
	3.	Respondent was a recipient of FAP benefits from August 1, 2011 through October 31, 2012.	
4.		Respondent \boxtimes was \square was not aware of the res ponsibility to report all changes within 10 days.	
	5.	Respondent had no appar ent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.	
	6.	The Department's OIG indicates the time period they are considering the fraud period is Augus t 1, 2011 through February 29, 2012 and May 1, 2012 through October 31, 2012.	
	7.	During the alleged fraud period, Respondent was is sued \$ in F AP benefits from the State of Michigan.	
8.		Respondent was entitled to \$0 in \Box FIP \boxtimes FAP \Box SDA \Box CDC during this time period.	
9.		Respondent \boxtimes did \square did not receive an OI in the amount of \$ FAP benefits.	
10.		The Department \boxtimes has $\ \ \Box$ has not establish ed that Respondent committed an IPV.	
	11.	This was Respondent's ⊠ first ☐ second ☐ third IPV.	
	12.	A notice of disqualification hearing was mailed to Respondent at the last known address and \boxtimes was \square 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 FAP [formerly known as the Food Stamp (F S) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in T itle 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, 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 t o report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, and
- The client was clearly and co rrectly 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 the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. BAM 720.

A court or hearing decision that finds a client committed an IP V 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. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifet ime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720.

Here the OIG provided unequivocal evidence that Respondent became a resident of Ohio when the Respondent began using his EBT card exclusively outside the state of Michigan during several lengthy time peri ods each exceeding 60 da ys in duration. During those times, the Res pondent was no lo nger eligible to rece ive FAP benefits. BEM 220, p. 1.

Based on the credible testimony and other evidence presented, I have conc luded the OIG established, under the cl ear and convincing st andard, that Respondent committed an IPV in this matter. At no time did the Respondent inform the Department of his move to Ohio as he knew he was required to do in order to receive additional benefits.

DECISION AND ORDER

1.	Respondent 🗵 did 🗌 did not commit an IPV.
	2. Respondent did did not receive an overiss uance of program benefits i the amount of from the following program(s) FIP FAP SDA CDC.

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

It is FURT HER ORDERED that Respondent be disqualified from FAP for a period of 1 year.

Corey A. Arendt
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 8, 2013

Date Mailed: August 8, 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 fo r the county in which he/she lives.

CAA/las

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