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

IN THE MATTER OF:			Reg. No: Issue No:	2013-57320 3055	
				August 27, 2013	
ADM	INISTR	ATIVE LAW JUDGE: Corey A. Arendt			
	HE	ARING DECISION FOR INTENTIONAL	PROGRAM VIO	LATION	
and N heari Lansi	ICL 400 ng. Afte ng, Mic	s before the undersigned Administ rative 0.37 upon the Departm ent of Human Se er due notice, a telephone hearing was higan. The Depart ment was represe pector General (OIG). The Respondent a	ervic es' (Departm s held on Augus nted by	nent) request for a st 27, 2013, from of the	
		ISSUES			
	1. Did	Respondent receive an overissuand Program (FIP), Food Assistance Program (SDA), Child Developm the Department is entitled to recoup?	ogram (FAP), [☐ State Dis ability	
	2.	Did Respondent commit an Intentional I	Program Violation	ı (IPV)?	
	3.	Should Respondent be di squalifie Independence Program (FIP), State Dis ability Assistance (SDA), (CDC)?	ood Assistance	Program (FAP),	
FINDINGS OF FACT					
		trative Law Judge, based on t he com the whole record, finds as material fact:	npetent, material,	and substantial	
	1.	The Department's OIG filed a hearing establish an OI of benefits received by Respondent having allegedly committee.	Respondent	uly 15, 2013 to as a result of	
2.		The OIG ⊠ has ☐ has not reques te from receiving program benefits.	d that Responde	ent be disqualified	
	3.	Respondent was a recipient of FAP be	nefits from Augus	st 7, 2011 through	

April 30, 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 October 1, 2011 through April 30, 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 $\hfill \square$ FIP $\hfill \square$ FAP $\hfill \square$ SDA $\hfill \square$ CDC during this time period.
9.		Respondent \boxtimes did \square did not receive an OI in the amount of \$ in 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 \square was \boxtimes was not returned by the US Post Office as undeliverable.

CONCLUSIONS OF LAW

Department policies are contained in the Bri dges 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 to 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 evidence 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 Texas as early as August—7, 2011 when the Respondent began using his EBT car dexclusively outside the state of Michigan. On that date, the Respondent was no longer eligible to receive F AP benefits. BEM 220, p. 1.—The Respondent alleges he was unaware of his rights and responsibilies as he did not read all of the material provided to him when he applied for assistance and therefore did not know that he was to report to the Department when he moved. The Claimant howe ver affixed his signature to the application and in doing so—indicated he received, re viewed and agreed with the information provided in the application booklet. The booklet covers the Claimant's rights and responsibilities and informs—the applicant that all c hanges must be reported to the Department within 10 days of the change. This includes relocation.

Additionally, the Claim ant indicated that hi s card was lost who lie he was in Texas and that he did not make any pure chases with the card after his move. The Claimant however at no point in time reported to the Department that hi s card was lost or stolen. And furthermore, during the Claimant's time in Texas, the Claimant provided his card and pin number to other people living with him to make purchases. The Claimant was unable to come forward with any evidence to corroborate his claim that he did not make any purchases with the card after the move.

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 Texas as he knew he was required to do in order to receive additional benefits.

DECISION AND ORDER

I have concluded, based upon the above Findings of Fact and Conclusions of Law:

- Respondent ☑ did ☐ did not commit an IPV.
 - 2. Respondent ⊠ did ☐ did not receive an overiss uance of program benefits in 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

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Date Signed: August 28, 2013

Date Mailed: August 28, 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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