

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

IN THE MATTER OF:

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Reg. No.: 2013 32708
Issue No.: 3052, 4060
Case No.: ██████████
Hearing Date: April 24, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 April 24, 2012 from Detroit, Michigan. The Department was represented by Lead Agent, ██████████ 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)
 State Disability Assistance (SDA) Child Development and Care (CDC)
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)
 State Disability Assistance (SDA) Child Development and Care (CDC)?

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 7, 2013 to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. The OIG has has not requested that Respondent be disqualified from receiving FAP program benefits.
3. Respondent was a recipient of FIP FAP SDA CDC benefits during the period of April 1, 2006 through July 31, 2007. Exhibit 1, pp1.
4. Respondent was a recipient of FIP FAP SDA CDC benefits during the period of April 1, 2006 through July 21, 2007. Exhibit 1, pp2.
5. Respondent was was not aware of the responsibility to report his/her earnings from employment.
6. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
7. The Department's OIG indicates that the time period they are considering the fraud period is April 1, 2006 through July 31, 2007 for FAP. The Department's OIG is not seeking an IPV for CDC benefits, but is requesting Debt Collection
8. During the alleged fraud period, Respondent was issued \$4320 in FIP FAP SDA CDC benefits from the State of Michigan.
9. Respondent was entitled to \$3910 in CDC FIP FAP SDA CDC during this time period.
10. Respondent did receive an OI in in the amount of \$410 did not receive an OI in the amount of \$ _____ under the FIP FAP SDA CDC program.
11. During the period April 2, 2006 through July 21, 2007 the Claimant was overissued \$12,252 in CDC benefits.
12. The Department has established an IVP for FAP; has not established that Respondent committed an IPV.
13. This was Respondent's first second third IPV.

14. 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 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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

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

A court or hearing decision that finds a client committed an 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. 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.

Additionally, the evidence demonstrated that for the time period beginning March 2006 when the Claimant filed an application on March 27, 2006 the Claimant indicated that she was working for the [REDACTED] a restaurant owned by the [REDACTED] and also known as the [REDACTED]. A verification of employment was filed for the period March 16, 2006, just before the application, and indicated that the employment had not ended. The Department's proofs at the hearing indicated that CDC application for the same period showed different hours needed for day care than the hours of employment reported by the Employer's verification. Exhibit 1 pp 31 and 21.

An application filed in March 2007 also indicated Claimant was employed by the [REDACTED] [REDACTED]. A Semi-Annual Contact Report also reported Claimant was working for [REDACTED]. Wage information provided by the Department indicated that the Claimant worked for the [REDACTED] for the first quarter of 2006 only and no wages were reported whatsoever for the Respondent for wage year beginning 2006 second quarter and all of 2007 the period in question. The pay stubs submitted also show wages for 2006 in February and August and the stubs are dissimilar. The year to date income for August 2006 based upon the prior pay stub for February 2006 should be more than shown and appears questionable as to whether the pay stubs are authentic. During this period the Claimant received FAP benefits of \$4320 benefits but was only entitled to receive \$3910 resulting in an overissue of \$410 in FAP benefits. The income used by the Department to calculate FAP benefits was the CDC income received by the Respondent during the period that she was not otherwise entitled to receive CDC, as the Department established that Respondent was not working and therefore had no CDC need. The evidence established that the Claimant failed to advise the Department that she was no longer working and thus was not entitled to CDC benefits and failed to report a change in her income for the period.

The evidence of intentional conduct to defraud was sufficient as the Claimant continued to receive FAP benefits based upon income she was not earning and failing to report

ending of her employment. Based upon the evidence presented the Department did demonstrate that the Claimant received FAP benefits due to her employment income which did not exist and failed to report no income and did so intentionally, and thus the Department did establish an IPV.

As regards the FAP benefits the Department did sustain its burden of proof of an overissuance in the amount of \$410 based upon the the budgets produced and the CDC issuance records which established the unearned income received by the Claimant in the form of CDC benefits. Likewise the Department did establish that the Claimant did receive an overissuance of CDC benefits in the amount of \$12,252 for the period April 2, 2006 through July 21, 2007 based upon the issuance summaries and the actual benefits received during the period for each of respondent's children.

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:

FAP IPV AND OVERISSUANCE

1. Respondent did did not commit an IPV with regard to the Food Assistance (FAP) program.
2. Respondent did did not receive an overissuance of program benefits in the amount of \$410 from the following program(s): FIP FAP SDA CDC.
3. Respondent did did not commit an IPV with regard to the FAP program.

CDC

4. Respondent did receive an overissuance of CDC benefits in the amount of \$12,252 for the CDC program.

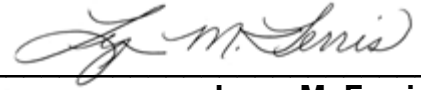
The Department is ORDERED to delete the OI and cease any recoupment action with regard to FAP.

The Department is ORDERED to initiate recoupment procedures for the amount of \$410 in FAP benefits and \$12,252 in CDC benefits in accordance with Department policy.

IPV DISQUALIFICATION

It is FURTHER ORDERED that Respondent be disqualified from

FIP FAP SDA CDC for a period of
 12 months. 24 months. lifetime.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 5, 2013

Date Mailed: June 5, 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.

LMF/cl

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