

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

IN THE MATTER OF:



Reg. No.: 201337852
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: June 5, 2013
County: Ionia

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 June 5, 2013 from Lansing, Michigan. The Department was represented by [REDACTED] of the Office of Inspector General (OIG). 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

- i. Did Respondent receive an overissuance (OI) of Medical Assistance (MA) benefits that the Department is entitled to recoup?
- ii. Did Respondent commit an Intentional Program Violation (IPV)?

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 April 3, 2013 to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. The OIG has not requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of MA (Adult Medical Program (AMP)) benefits during the period of April 1, 2011 through August 31, 2011.

4. Respondent was aware of the responsibility to timely report to the Department any changes in circumstances including changes in income.
5. Respondent had no apparent physical or mental impairment that would limit his understanding or ability to fulfill this requirement.
6. The Department's OIG indicates that the time period they are considering the fraud period is April 1, 2011 through August 31, 2011.
7. During the alleged fraud period, Respondent was issued \$1,048.60 in MA/AMP benefits from the State of Michigan.
8. Respondent was entitled to \$0.00 in MA/AMP during this time period.
9. Respondent did receive an OI of MA/AMP benefits in the amount of \$1,048.60.
10. The Department has established that Respondent committed an IPV.
11. This was Respondent's first IPV.
12. A notice of disqualification hearing was mailed to Respondent at the last known address and 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 Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

An Intentional Program Violation (IPV) is a benefit overissuance (OI) resulting from the willful withholding of information or other violation of law or regulation by the client or his/her authorized representative. See Bridges Program Glossary (BPG) at page 24.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 720.

According to BAM 720, a "suspected IPV" means an OI exists for which the following three conditions exist:

- 1) The client intentionally failed to report information **or** intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, **and**
- 2) The client was clearly and correctly instructed regarding his or her reporting responsibilities, **and**
- 3) The client has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill their reporting responsibilities.

An 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:

- FAP trafficking OIs 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 IPV, **or**
 - The alleged IPV involves FAP trafficking, **or**
 - The alleged fraud involves concurrent receipt of assistance (See BEM 222), **or**
 - The alleged fraud is committed by a state/government employee. BAM 720.

For MA and CDC cases, an IPV exists when the client/AR or CDC provider:

- Is found guilty by a court, **or**
- Signs a DHS-4350 **and** the prosecutor or the office of inspector general (OIG), authorizes recoupment in lieu of prosecution, **or**
- Is found responsible for the IPV by an administrative law judge conducting an IPV or debt establishment hearing. BAM 720.

A disqualified recipient remains a member of an active group as long as he/she lives with them. BAM 720. 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. BAM 720. Clients are disqualified for periods of 1 (one) year for the first IPV, 2 (two) years for the second IPV, a lifetime disqualification for the third IPV, and 10 (ten) years for a concurrent receipt of benefits. BAM 720. If the

court does not address disqualification in its order, the standard period applies. BAM 720.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. BAM 105. Clients are required to report changes within 10 (ten) days of receiving the first payment reflecting the change. BAM 105. Clients are required to report changes in circumstances within 10 (ten) days after the client is aware of them. BAM 105. These changes include, but are not limited to changes regarding: (1) persons in the home; (2) marital status; (3) address and shelter cost changes that result from the move; (4) vehicles; (5) assets; (6) child support expenses paid; (7) health or hospital coverage and premiums; or (8) child care needs or providers. BAM 105.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105. This includes completion of necessary forms. BAM 105. Clients must completely and truthfully answer all questions on forms and in interviews. BAM 105. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105.

In the present case, the Department has established that Respondent was aware of the responsibility to timely and accurately report to the Department all changes in income and employment. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within ten days. BAM 105. Respondent's signature on the Assistance Application in this record certifies that he was aware that fraudulent participation in FAP could result in criminal, civil or administrative claims. The record contained an employment verification which showed that Respondent began employment with [REDACTED] on January 19, 2011 and received his first check on February 9, 2011. The record also shows that Respondent signed a redetermination on August 26, 2011 which indicated he had been employed with [REDACTED] since January 2011. Respondent had no apparent physical or mental impairment that limits his understanding or ability to fulfill these reporting responsibilities.

This Administrative Law Judge therefore concludes that the Department has shown, by clear and convincing evidence, that Respondent committed an intentional violation of the MA/AMP resulting in a total \$1,048.60 overissuance. This is Respondent's first MA/AMP IPV. Consequently, the Department's request for MA/AMP restitution must be granted.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law concludes that:

- Respondent did commit an IPV.
- Respondent did receive an MA/AMP overissuance in the amount of \$1,048.60.

201337852/CAP

The Department is ORDERED to initiate recoupment procedures for the amount of \$1,048.60 in accordance with Department policy.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

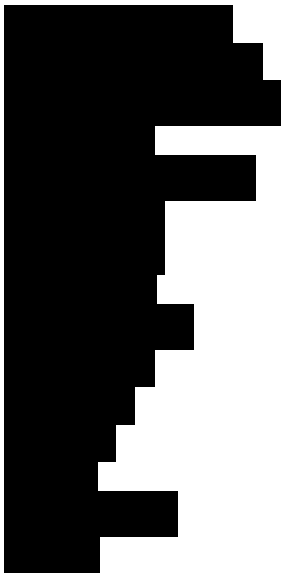
Date Signed: June 6, 2013

Date Mailed: June 6, 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.

CAP/aca

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