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

Reg. No.: Issue No.: Case No.: Hearing Date: County:	2013-3781 3055 November 5, 2013 Wayne 18
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AL PROGRAM V	IOLATION
ve Law Judge pur e Code of Federa Code, R 400.313 on November 5,	rvices (Department), suant to MCL 400.9, al Regulation (CFR), 30 and R 400.3178. 2013 from Lansing, Lead Regulation
	espondent's absence Mich Admin Code R
State Disability A Child Developme	ent and Care (CDC)
dence, commit an	Intentional Program
	Issue No.: Case No.: Hearing Date: County: AL PROGRAM V ent of Human Serve Law Judge pure Code, R 400.313 on November 5, d it was held in Real (200.3130) d it was held in Real (300.3130)

☐ Family Independence Program (FIP)? ☐ State Disability Assistance (SDA)? ☐ Food Assistance Program (FAP)? ☐ Child Development and Care (CDC)?

Should Respondent be disqualified from receiving

3.

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 June 25, 2013, to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2.	The OIG \boxtimes has requested that Respondent be disqualified from receiving program benefits.
3.	Respondent was a recipient of $\ \square$ FIP $\ \boxtimes$ FAP $\ \square$ SDA $\ \square$ CDC $\ \square$ MA benefits issued by the Department.
4.	Respondent \boxtimes was aware of the responsibility to timely report any changes in circumstances – including residency.
5.	Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
3.	The Department's OIG indicates that the time period it is considering the fraud period is February 1, 2011 through August 31, 2011.
7.	During the alleged fraud period, Respondent was issued \$ in FIP SDA CDC MA benefits by the State of Michigan, and the Department alleges that Respondent was entitled to \$0 in such benefits during this time period.
3.	The Department alleges that Respondent received an OI in FIP FAP SDA CDC MA benefits in the amount of \$
9.	This was Respondent's ⊠ first ☐ second ☐ third alleged IPV.
10.	A notice of hearing was mailed to Respondent at the last known address and \boxtimes was not returned by the US Post Office as undeliverable.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT). Prior to August 1, 2008, Department policies were contained in the Department of Human Services Program Administrative Manuals (PAM), Department of Human Services Program Eligibility Manual (PEM), and Department of Human Services Reference Schedules Manual (RFS).

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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 Mich Admin Code, R 400.3001 through R 400.3015.

The Department's OIG requests IPV hearings for the following cases:

- FAP trafficking Ols that are not forwarded to the prosecutor,
- prosecution of welfare fraud or FAP trafficking is declined by the prosecutor for a reason other than lack of evidence, and
 - the total OI amount for the FIP, SDA, CDC, MA and FAP programs is stated or more, or
 - the total OI amount is less than \$ 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 (7-1-2013), p. 12.

Intentional Program Violation

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 reporting responsibilities.

BAM 700 (7-1-2013), p. 6; BAM 720, p. 1.

An IPV is also suspected for a client who is alleged to have trafficked FAP benefits. BAM 720, p. 1.

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An IPV requires that the Department establish by 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, p. 1; see also 7 CFR 273(e)(6). Clear and convincing evidence is evidence sufficient to result in a clear and firm belief that the proposition is true. See M Civ JI 8.01.

In this case, the Department has established that the Respondent was aware of his responsibility to timely and accurately report to the Department any and all household changes – including residency. Department policy requires the beneficiary to report any change in circumstance that affects eligibility or benefit amount within 10 (ten) days. See BAM 105

The Respondent's threshold signature on his application for assistance certifies that he was aware that fraudulent participation in the FAP program could result in criminal or civil or administrative claims to be brought against him. The instant record contains an Electronic Benefit Transaction (EBT) history of FAP purchases during the time period in question which demonstrated the Respondent used his Michigan-issued EBT card in Texas for more than 30-days. See Exhibit #1 – 3, at page 14

The evidence brought today also establishes that the Respondent did not report this move to his Department eligibility specialist (ES) within the 10 (ten) day reporting period required under policy.

There was no evidence that the Respondent had any apparent physical or mental impairment that limited his understanding or ability to comply with these reporting requirements.

He was registered to in on on a control of a coordingly, absent a definite plan of return - it is highly unlikely that the Respondent was limiting himself to a temporary [30 days or less] absence from the state of Michigan. BEM 212

Disqualification

A court or hearing decision that finds a client committed IPV disqualifies that client from receiving program benefits. BAM 720, p. 12. A disqualified recipient remains a member of an active group as long as he lives with them, and other eligible group members may continue to receive benefits. BAM 720, p. 13.

Clients who commit an IPV are disqualified for a standard disqualification period except when a court orders a different period, or except when the OI relates to MA. BAM 720, p. 13. Refusal to repay will not cause denial of current or future MA if the client is otherwise eligible. BAM 710 (7-1-2013), p. 2. 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 FAP concurrent receipt of benefits. BAM 720, p. 16.

In this case, the record demonstrates that Respondent is guilty of his first FAP IPV – which carries a 12-month period of disqualification.

Over issuance

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700, p. 1.

In this case, the record also demonstrates that the Respondent received an OI of FAP in the amount of \$ for the time period referenced above.

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:

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1.	Respondent 🖂 did commit an IPV by clear and convincing evidence.
2.	Respondent \boxtimes did receive an OI of program benefits in the amount of \$ from the following program(s) \square FIP \boxtimes FAP \square SDA \square CDC \square MA.
The \$	Department is ORDERED to \boxtimes initiate recoupment procedures for the amount of in accordance with Department policy.
	t is FURTHER ORDERED that Respondent be disqualified from \square FIP \boxtimes FAP SDA \square CDC for a period of \boxtimes 12 months. \square 24 months. \square lifetime.
	/s/
	Dale Malewska
	Administrative Law Judge
	for Maura Corrigan, Director
	Department of Human Services
	Department of number Services

Date Signed: 1/10/14

Date Mailed: 1/10/14

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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.

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