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

IN THE MATTER OF:							
	Reg. No.: Issue No(s).: Case No.: Hearing Date: County:	2013-57098 3005 November 25, 2013 Grand Traverse					
ADMINISTRATIVE LAW JUDGE: Dale Malewska	l						
HEARING DECISION							
Upon a hearing request by the Department of Human Services (Department) to establish an overissuance (OI) of benefits to Respondent, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 400.43a, and 24.201, <i>et seq.</i> , and Mich Admin Code, R 400.941, and in accordance with 7 CFR 273.15 to 273.18, 42 CFR 431.200 to 431.250, 45 CFR 99.1 to 99.33, and 45 CFR 205.10. After due notice, a telephone hearing was held on November 25, 2013, from Lansing, Michigan. The Department was represented by OIG Agent,							
Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Department of Human Services Bridges Administrative Manual (BAM) 725 (7-1-2013), pp. 16-22.							
<u>ISSUE</u>							
Did Respondent receive an OI of ⊠ Food Assistance Program (FAP) benefits?							
FINDINGS OF FACT							
The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:							
<ol> <li>Respondent was a recipient of ☐ FIP ☐ F the Department.</li> </ol>	FAP SDA	CDC benefits from					
2. The Department alleges Respondent received a ☐ FIP ☒ FAP ☐ SDA ☐ CDC OI during the period February 1, 2012, through July 31, 2012, due to ☐ Department's error ☒ Respondent's error.							

3. The Department alleges that Respondent received a \$ OI that is still due and owing to the Department.

#### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manua (BEM), and Department of Human Services Reference Tables Manual (RFT).
☐ The Family Independence Program (FIP) was established pursuant to the Persona Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3101 to .3131.
∑ The Food Assistance Program (FAP) [formerly known as the Food Stamp program is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAF pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.
☐ The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.31513180.
The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.50015020.

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

- FAP trafficking OIs 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 \$ 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 (7-1-13), 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. 7; BAM 720, p. 1.

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

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.

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In this case, the Department established that the Respondent was aware of his responsibility to timely, accurately and fully report any changes in his circumstances particularly with regard to employment on application. A June 4, 2013 interview conducted by OIG verified that the Claimant failed to report that he was employed at and that had he volunteered that information, as required, he would not have been qualified for FAP benefits. [See Exhibit #1 Sub (A) at pp.19-24 and Sub (C) at pp. 25-33]

The Claimant's application materials require that he report any change in circumstance that will affect eligibility or benefit amount within 10 (ten) days. BAM 105. The signature on his assistance application and his statement to agent clearly shows that he was aware of his responsibilities to accurately and fully report employment and household income on application for benefits. He was also aware that fraudulent participation in FAP could result in criminal, civil or administrative claims being levied against him.

The record also contained [at pages 25 and 26] a convincing employment history showing his eight (8) month tenure at a limit – including pay dates, hours worked and gross earnings.

The OIG testified that had the Claimant accurately reported his employment he would have been eligible for zero FAP benefits.

### **Disqualification**

A court or hearing decision that finds a client committed IPV disqualifies that client from receiving program benefits. BAM 720, p. 14. 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. 15.

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. 17.

In this case, the record and the testimony of the OIG agent established that the Respondent is guilty of his first FAP IPV which carries a 12-month disqualification.

#### **Overissuance**

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 Respondent receiv eligibility. [Exhibit #1 (sub C) p. 27]	red \$	in FAP fu	ınds for wl	hich he h	ad zero
The Administrative Law Judge, base of Law, finds that the Department ☐ SDA ☐ CDC benefit OI to Respo	🖄 did	did not	0		

#### **DECISION AND ORDER**

Accordingly, the Department is AFFIRMED.		
☐ The Department is ORDERED to initiate collection procedures for a accordance with Department policy.	\$	OI in
/s/		
	Dale Male	wska

Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: 1/10/14

Date Mailed: 1/10/14

**NOTICE OF APPEAL:** The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion:
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings Reconsideration/Rehearing Request P.O. Box 30639 Lansing, Michigan 48909-07322

## 2013-57098/DM

## DM/tb

