

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20145823
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: January 23, 2014
County: Kent

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 and in accordance with 7 CFR 273.16 and Mich. Admin Code, Rule 400.3130 upon the Department of Human Services' (Department) request for a hearing. After due notice, a telephone hearing was held on January 23, 2014 from Lansing, Michigan. Respondent did not appear. The record did not contain returned mail. In accordance with 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5) and Bridges Administration Manual (BAM) 720 the hearing proceeded without Respondent. The Department was represented by RA [REDACTED] of the Office of Inspector General (OIG).

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) and whether Respondent received a [REDACTED] over-issuance of Food Assistance Program (FAP) benefits from May 1, 2012, to October 31, 2012, which the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing evidence on the whole record, finds as material fact:

1. The Department's OIG filed a hearing request on October 17, 2013, to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. On February 8, 2012, an electronic application was submitted in Respondent's name for Food Assistance Program (FAP) benefit. The application indicated Claimant: was married; was not a resident of Michigan; no response to the

question "Intends to reside in Michigan?"; was living in a homeless shelter; was part of a substance abuse treatment center; and was attending a drug and alcohol treatment program.

3. On March 20, 2012, Respondent contacted the Department and reported a new address in Chicago, IL.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

In this case, the Department has requested a disqualification hearing to establish an over-issuance of benefits as a result of an Intentional Program Violation (IPV) and the Department has asked that Respondent be disqualified from receiving benefits. Department policies provide the following guidance and are available on the internet through the Department's website.

BAM 720 INTENTIONAL PROGRAM VIOLATIONS

DEPARTMENT POLICY

All Programs

Recoupment policies and procedures vary by program and over-issuance (OI) type. This item explains Intentional Program Violation (IPV) processing and establishment.

BAM 700 explains OI discovery, OI types and standards of promptness. BAM 705 explains agency error and BAM 715 explains client error.

DEFINITIONS

All Programs

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.

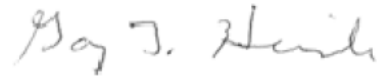
IPV is suspected when there is clear and convincing evidence that the client or CDC provider has intentionally withheld or misrepresented information for the **purpose** of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility.

The information in the Respondent's application combined with the fact that he reported a change of address to another state the month after the application points to agency error. The evidence in this record is not clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV).

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, finds that the Department has not established by clear and convincing evidence that Respondent committed an intentional program violation (IPV).

The Department is ORDERED to **delete** the OI and cease any recoupment action.



Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 02/11/2014

Date Mailed: 02/12/2014

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.

GFH/sw

cc:

