

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

**IN THE MATTER OF:**



Reg. No.: 201434042  
Issue No(s): 3005  
Case No.: [REDACTED]  
Hearing Date: July 14, 2014  
County: Genesee (2)

**ADMINISTRATIVE LAW JUDGE:** Susan C. Burke

**HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION**

Upon the request for a hearing by the Department of Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16, and with Mich Admin Code, R 400.3130 and R 400.3178. After due notice, a telephone hearing was held on July 14, 2014 from Detroit, Michigan. The Department was represented by [REDACTED], Regulation Agent 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 400.3178(5).

**ISSUES**

1. Did Respondent receive an overissuance (OI) of Family Independence Program (FIP) Food Assistance Program (FAP) and Medical Assistance (MA) benefits that the Department is entitled to recoup?
2. Did the Department establish, by clear and convincing evidence, that Respondent committed an Intentional Program Violation (IPV)?
3. Should Respondent be disqualified from receiving benefits for FIP and FAP?

**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 [REDACTED], to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. The OIG requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of FIP, FAP and MA benefits issued by the Department.
4. Respondent was aware of the responsibility to report that she moved to [REDACTED]
5. Respondent did not have an apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. The Department's OIG indicates that the time period it is considering the fraud period is [REDACTED] through [REDACTED] (fraud period).
7. During the fraud period, Respondent was issued \$11,309.57 in benefits by the State of Michigan, and the Department alleges that Respondent was entitled to \$0.00 in such benefits during this time period.
8. The Department alleges that Respondent received an OI in benefits in the amount of \$11,309.57.
9. This was Respondent's first alleged IPV.
10. A notice of 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 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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260; MCL 400.10; the Social Welfare Act, MCL 400.1-.119b; 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10; the Social Welfare Act, MCL 400.1-.119b; and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.105-.112k. .

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 \$1000 or more, **or**
  - the total OI 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

### **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; BAM 720

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

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 (emphasis in original); 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.

With respect to residency, BEM 220 (1/1/2012), p. 1, instructs:

#### **RESIDENCE**

**FIP, SDA and AMP** A person is a resident if **all** of the following apply:

- Is not receiving assistance from another state.
- Is living in Michigan, except for a temporary absence.
- Intends to remain in the state permanently or indefinitely.

**CDC and FAP** A person is considered a resident while living in Michigan for any purpose **other than a vacation**, even if there is no intent to remain in the state permanently or indefinitely. Eligible persons may include:

- Persons who entered the state with a job commitment or to seek employment; and
- Students (for FAP **only**, this includes students living at home during a school break.)

#### **MA Only (noninstitutionalized persons)**

A person is **not** a Michigan resident for any month in which he received an SSI state supplement payment from another state.

An individual is a Michigan resident if either of the following apply:

- The individual lives in Michigan, except for a temporary absence,

**and** intends to remain in Michigan permanently or indefinitely.

In the present case, Respondent signed Redetermination forms on [REDACTED] and [REDACTED]. Official Notice is taken that with Respondent's signature on the assistance application, redetermination or semi-annual contact report, Respondent certified receipt, review and agreement with the sections in the assistance application Information Booklet, which include the obligation to report changes in one's circumstances. In addition, Respondent has no apparent physical or mental impairment that limits her understanding or ability to fulfill reporting responsibilities.

Respondent used her Bridge card in [REDACTED] almost exclusively from [REDACTED] through [REDACTED]. Additionally, the state of [REDACTED] issued a driver's license to Respondent on [REDACTED], and Respondent registered a motor vehicle on [REDACTED]. It is logical to conclude that Respondent began residing in [REDACTED] in [REDACTED] and did not report the information to the Department in a timely manner. It is also logical to conclude that Respondent intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. Based on the above discussion, it is found that the Department has proven by clear and convincing evidence that Respondent committed an IPV.

#### **Disqualification**

A court or hearing decision that finds a client committed IPV disqualifies that client from receiving program benefits. BAM 720 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. *Id.*

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 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

In this case, the Department alleged that Respondent received concurrent benefits from [REDACTED] but the Department's only presentation of proof is an e-mail response that appears to be from an [REDACTED] official, which indicates opening of assistance cases in [REDACTED] but does not detail actual receipt of [REDACTED] benefits, e.g., when and where the benefits were paid and the amount of payments. Therefore, Respondent is not disqualified from receiving benefits based on receipt of concurrent benefits.

The Department presented information on only the IPV being considered herein, so it is concluded that this is Respondent's first IPV. Respondent will therefore be disqualified from receiving FIP and FAP benefits for one year.

#### **Overissuance**

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OI. BAM 725, p. 1

In this case, Respondent received an OI in benefits due to non-Michigan residency in the amount of \$11,309.57. See pp. 39-46 for calculation of the OI.

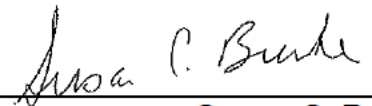
**DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, concludes that:

1. The Department established by clear and convincing evidence that Respondent committed an IPV.
2. Respondent received an OI of program benefits in the amount of \$11,309.57 from the following program(s): FIP, FAP and MA. (FAP: \$5,130; FIP: \$3,830; MA: \$2,349.57)

The Department is ORDERED to initiate recoupment procedures for the amount of \$11,309.57, in accordance with Department policy.

It is FURTHER ORDERED that Respondent be disqualified from FIP and FAP for a period of one year.

  
**Susan C. Burke**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 7/24/2014

Date Mailed: 7/24/2014

**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.

SCB/hw

cc:

