

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-005217
Issue No.: 3005
Case No.: [REDACTED]
Hearing Date: August 12, 2014
County: Wayne County DHS #49

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 **August 12, 2014**, from Lansing, 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

Whether Respondent committed an Intentional Program Violation (IPV) and whether that Intentional Program Violation (IPV) caused Respondent to receive a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits from January 1, 2014 to June 28, 2014 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. On November 25, 2013, Respondent submitted an online application for Food Assistance Program benefits through Michigan. On the application Claimant did not indicate any form of disability. Respondent electronically signed the affidavit.
2. On December 12, 2013, Food Assistance Program benefits through Michigan were applied to an Electronic Benefit Transfer Card in Respondent's name.
3. On January 13, 2014, Respondent applied for Food Assistance Program benefits in Kentucky. Respondent was interviewed and the Kentucky worker recorded that Respondent had been verified as a recipient of Retirement, Survivors, Disability

Income (RSDI) on January 13, 2013 and Supplemental Security Income (SSI) benefits on December 23, 2013.

4. The Department's OIG filed a disqualification hearing request on July 3, 2014. At that time Respondent had not used any of the Michigan Food Assistance Program benefits applied to her Electronic Benefit Transfer Card.

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 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.

Bridges Administration Manual (BAM) 720 Intentional Program Violation (2014) governs the Department's actions in this case. The Department's OIG requests IPV hearings for the following cases:

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.

Intentional Program Violation

BAM 720 states that a 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

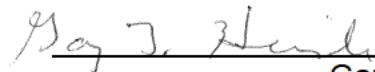
The client has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill reporting responsibilities.

In this case the records from Kentucky show that Claimant had been receiving Social Security Administration disability benefits since at least January 2013. As noted above, and Intentional Program Violation (IPV) requires evidence which that the client has no apparent physical or mental impairments that limit their understanding or ability to fulfill reporting responsibilities. The evidence in this record contradicts the Department's assumption that Respondent had no such impairment.

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).

It is ORDERED that the actions of the Department of Human Services, in this matter, are NOT UPHOLD.



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

Date Signed: **9/9/2014**

Date Mailed: **9/9/2014**

GFH/hj

NOTICE: The law provides that within 30 days of receipt of the above Hearing Decision, the Respondent may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County.

cc: 

