

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

**IN THE MATTER OF:**



Reg. No.: 14-008257  
Issue No.: 3005  
Case No.: [REDACTED]  
Hearing Date: December 01, 2014  
County: GENESEE-2 (MC CREE)

**ADMINISTRATIVE LAW JUDGE: Lynn Ferris**

**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 December 1, 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 Food Assistance Program (FAP) 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 Food Assistance Program (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 August 1, 2014, to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. The OIG has requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of FAP benefits issued by the Department.
4. Respondent was aware of the responsibility to receive Food Assistance benefits from only one state at a time and not concurrently.
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 September 1, 2012 through February 28, 2013 (fraud period).
7. During the fraud period, Respondent was issued [REDACTED] in FAP benefits by the State of Michigan, and the Department alleges that Respondent was entitled to \$0 in such benefits during this time period due to Respondent's alleged receipt of FAP benefits also from the State of Texas during the fraud period.
8. The Department alleges that Respondent received an OI in FAP benefits in the amount of \$ [REDACTED]
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 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 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 (8/1/12), p. 10.

### **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 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 (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.

In this case, the Department seeks a 10-year disqualification of the Respondent from receiving FAP benefits based upon Respondent's alleged concurrent receipt of benefits from both the states of Michigan and Texas at the same time. Department policy BEM 222 provides that a person **cannot** receive FAP benefits in more than one state for any month. BEM 222 (6/1/11) p2; (7/1/13) p. 3. Out-of-state benefit receipt or termination may be verified by one of the following:

DHS-3782, Out-of-State Inquiry;  
Letter or document from other state; and  
Collateral contact with the state. BEM 222, p.4, 3.

The Department presented two communications received from the State of Texas to verify that the Respondent was receiving FAP benefits in Texas. A document submitted, dated July 29, 2014, indicates that SNAP terminated March 1, 2013. Exhibit 1, p. 47. The second document submitted by a different person indicates:

Case Information: SNAP Denied Amount [all blank]  
Effective date: 9/1/12  
End date: 2/28/13,

In the comments section of the form states "case is closed"  
[REDACTED] is not receiving any benefits in Texas.

After a thorough review of the documents presented, without more facts, the Department has not established that the Respondent received FAP benefits in Texas. The second document does not indicate that Respondent actually received benefits in Texas and could also be interpreted to mean that the Effective Date 9/1/12 and End Date 2/18/13 were searched and no FAP benefits were received. Although the reference indicates that "case is closed" it does not indicate clearly the period it was open. There was no other collateral contact information such as an actual FAP benefit issuance summary or other clear and concise statement from Texas authorities that Respondent was a FAP recipient during a specific period. Therefore, it is determined that the Department has not shown by clear and convincing evidence that the Respondent committed an IPV by concurrent receipt of FAP benefits from Michigan and Texas.

### **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. 12.

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 (10/1/09), 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. 13.

In this case, the Department did not establish an IPV, and thus is not entitled to any disqualification.

### **Overissuance**

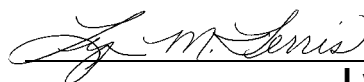
When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700, (12/1/11) p. 1.

In this case, the Department did not establish a concurrent receipt of benefits IPV, and thus is not entitled to a finding that any overissuance is due to be recouped.

### **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 has not established by clear and convincing evidence that Respondent committed an IPV.
2. Respondent did not receive an OI of program benefits in the amount of [REDACTED] from the following program: FAP.
3. The Department is ORDERED to delete the OI and cease any recoupment action.



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

Date Signed: **12/3/2014**  
Date Mailed: **12/3/2014**  
LMF/tm

**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:

