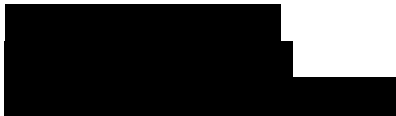


STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

**IN THE MATTER OF:**



Reg. No.: 201427073  
Issue No.: 3005  
Case No.: [REDACTED]  
Hearing Date: May 28, 2014  
County: Calhoun County DHS

**ADMINISTRATIVE LAW JUDGE:** Gary F. Heisler

**HEARING DECISION**

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 May 28, 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. 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 in Respondent's absence.

**ISSUE**

Whether Respondent committed an Intentional Program Violation (IPV) and whether Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits from September 1, 2012 to March 31, 2013 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) Respondent intentionally failed to report information or gave incomplete or inaccurate information needed to make a correct benefit determination by failing to report his change of physical residence to another state.
- (2) Respondent signed the affidavit in the Assistance Application (DHS-1171) certifying that he was aware of reporting requirements as well as the conditions that constitute fraud/IPV and trafficking and the potential consequences.
- (3) Respondent has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill their reporting responsibilities.

(4) Respondent committed an Intentional Program Violation (IPV) by intentionally failing to report his change of physical residence to Arizona and submitting a fraudulent Redetermination (DHS-1010) representing he was still a physical resident of Michigan. Respondent then received and used Food Assistance Program (FAP) benefits through Michigan when he was not a physical resident of Michigan and no longer eligible for benefits through Michigan.

(5) In accordance with Bridges Administration Manual (BAM) 720, September 1, 2012 to March 31, 2013, has correctly been determined as the over-issuance period in this case.

(6) As a result of the Intentional Program Violation (IPV) Respondent received a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits during the over-issuance period.

(7) On February 17, 2014, the Office of Inspector General submitted this request for a hearing to disqualify Respondent from receiving Food Assistance Program (FAP) benefits.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACS R 400.3001-3015.

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:

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- 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.

### **IPV**

#### **FIP, SDA and FAP**

The client/authorized representative (AR) is determined to have committed an IPV by:

- A court decision.
- An administrative hearing decision.
- The client signing a DHS-826, Request for Waiver of Disqualification Hearing or DHS-830, Disqualification Consent Agreement or other recoupment and disqualification agreement forms.

### **OVERISSUANCE PERIOD**

#### **OI Begin Date FIP, SDA, CDC and FAP**

The OI period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy or 72 months (6 years) before the date the OI was referred to the RS, whichever is later.

To determine the first month of the OI period (for OIs 11/97 or later)

Bridges allows time for:

- The client reporting period, per BAM 105.
- The full standard of promptness (SOP) for change processing, per BAM 220.
- The full negative action suspense period.

**Note:** For FAP simplified reporting, the household has until 10 days of the month following the change to report timely. See BAM 200.

#### **OI End Date FIP, SDA, CDC and FAP**

The OI period ends the month (or pay period for CDC) before the benefit is corrected.

### **IPV Hearings**

#### **FIP, SDA, CDC, MA and FAP**

OIG represents DHS during the hearing process for IPV hearings.

OIG requests IPV hearings when no signed DHS-826 or DHS-830 is obtained, and correspondence to the client is not returned as undeliverable, or a new address is located.

**Exception:** For FAP only, OIG will pursue an IPV hearing when correspondence was sent using first class mail and is returned as undeliverable.

OIG requests IPV hearing for cases involving:

1. FAP trafficking OIs that are not forwarded to the prosecutor.
2. 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 combined 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.

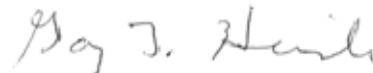
Excluding FAP, OIG will send the OI to the RS to process as a client error when the DHS-826 or DHS-830 is returned as undeliverable and no new address is obtained.

A detailed analysis of the evidence presented, applicable Department policies, and reasoning for the decision are contained in the recorded record.

### **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 established by clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV) which resulted in a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup. This is Respondent's 1<sup>st</sup> Intentional Program Violation (IPV) of the Food Assistance Program (FAP) and the Department may disqualify Respondent from receiving Food Assistance Program (FAP) benefits in accordance with Department of Human Services Bridges Administration Manual (BAM) 720 (2013).

It is ORDERED that the actions of the Department of Human Services, in this matter, are **UPHELD**.



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

Date Signed: June 16, 2014

Date Mailed: June 16, 2014

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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.

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cc:

