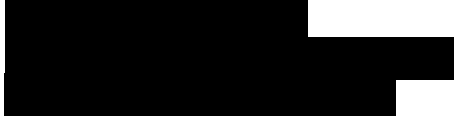


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201427096
Issue No.: 2005, 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 S. Picca, 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 \$1,020.93 over-issuance of Medical Assistance (MA) benefits and a \$1,800 over-issuance of Food Assistance Program (FAP) benefits from August 1, 2012 to April 30, 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 her change of physical residence to another state.
- (2) Respondent signed the affidavit in the Assistance Application (DHS-1171) certifying that she 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 her change of physical residence to North Carolina and continuing to receive Medical Assistance (MA) benefits through Michigan continuing to receive and use Food Assistance Program (FAP) benefits through Michigan when she was no longer a physical resident of Michigan and no longer eligible for benefits through Michigan.
- (5) In accordance with Bridges Administration Manual (BAM) 720, August 1, 2012 to April 30, 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 \$1,020.93 over-issuance of Medical Assistance (MA) benefits and 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 AACRS 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 710 RECOUPMENT OF MA OVER-ISSUANCES

DEPARTMENTAL POLICY MA ONLY

Initiate recoupment of an overissuance (OI) due to **client error or intentional program violation (IPV)**, **not** when due to **agency error** (see BAM 700 for definitions). Proceed as follows:

Determine the OI period and amount.

Determine the OI Type (client error or suspected IPV).

Initiate recoupment of an OI due to client error.

If IPV is suspected, refer the case to the Office of Inspector General (OIG), if appropriate, by completing a DHS-834, Fraud Investigation Request.

PROCEDURES

Document your decisions and actions on the application form. Your manager must review the case record.

MA Payment Information

Complete and email the DHS FIELD REQUESTS-DCH OIG Incoming Data Request Form to OHSIGDataRequests@michigan.gov to obtain a list of MA payments in the OI period. For changes unreported by ongoing recipients, the OI period begins the first day of the month **after** the month in which the standard reporting period **plus** the negative action period would have ended.

Overissuance Determination

When you receive the amount of MA payments, determine the OI amount.

For an OI due to unreported income or a change affecting need allowances:

If there would have been a deductible or larger deductible, the OI amount is the correct deductible (minus any amount already met) **or** the amount of MA payments, whichever is less.

If there would have been a larger LTC, hospital or post-eligibility patient-pay amount, the OI amount is the difference between the correct and incorrect patient-pay amounts **or** the amount of MA payments, whichever is less.

For an OI due to **any other** reason, the OI amount is the amount of MA payments.

BAM 720 INTENTIONAL PROGRAM VIOLATIONS

DEPARTMENT POLICY

All Programs

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

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

DEFINITIONS

All Programs

Suspected IPV means an over-issuance 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.

IPV

FIP, SDA, FAP and CDC

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

- A court decision.
- An administrative hearing decision.
- The client/AR 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

Begin Date

FIP, SDA, CDC and FAP

The over-issuance 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 it was referred to the RS, whichever is later.

To determine the first month of the over-issuance period (for over-issuances 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.

End Date

FIP, SDA, CDC and FAP

The over-issuance 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 and MDE 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 over-issuances 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 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.

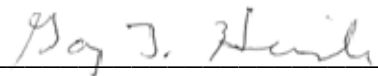
Excluding FAP, OIG will send the OI to the RS to process as a client error when the DHS-826 or DHS-830 is returned as undeliverable and no new address is obtained.

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 Medical Assistance (MA) benefits and a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup. This is Respondent's 1st 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**.



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

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/hj

cc:

