

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

IN THE MATTER OF:



Reg. No.: 201432246
Issue No.: 3005
Case No.: [REDACTED]
Hearing Date: June 18, 2014
County: Ingham 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 June 18, 2014 from Lansing, Michigan. The Department was represented by Regulation Agent [REDACTED] of the Office of Inspector General (OIG). Respondent did not appear at the hearing. Respondent had previously signed the Intentional Program Violation Repayment Agreement (DHS-4350) but not the Request for Waiver of Disqualification Hearing (DHS-826). 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 on the issue of whether Respondent committed an Intentional Program Violation (IPV).

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing evidence on the whole record, finds as material fact:

1. 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.
2. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.

3. On September 2, 2011, Respondent was sent a Notice of Case Action (DHS-1605) which stated the increased amount of his Food Assistance Program benefits was based on \$0.00 income.
4. Respondent committed an Intentional Program Violation (IPV) by intentionally failing to report that he began receiving Unemployment Compensation Benefits in September 2011.
5. This is Respondent's 1st Intentional Program Violation (IPV).
6. The Department's OIG filed a disqualification hearing request on March 25, 2014.

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 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 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 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.

FAP Only

IPV is suspected for a client who is alleged to have trafficked FAP benefits.

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.

FAP Only

IPV exists when an administrative hearing decision, a repayment and disqualification agreement or court decision determines FAP benefits were trafficked.

OIG RESPONSIBILITIES

All Programs

Suspected IPV cases are investigated by OIG. Within 12 months, OIG will:

- Refer suspected IPV cases that meet criteria for prosecution to the Prosecuting Attorney.
- Refer suspected IPV cases that meet criteria for IPV administrative hearings to the Michigan Administrative Hearing System (MAHS).
- Return non-IPV cases to the RS.

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 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.

DISQUALIFICATION FIP, SDA AND FAP

Disqualify an active **or** inactive recipient who:

- Is found by a court or hearing decision to have committed IPV.
- Has signed a DHS-826 or DHS-830.
- Is convicted of concurrent receipt of assistance by a court.
- For FAP, is found by MAHS or a court to have trafficked FAP benefits.

A disqualified recipient remains a member of an active group as long as he lives with them. Other eligible group members may continue to receive benefits.

See BEM 400, BEM 518, and BEM 554 for treatment of the assets and income of disqualified group members.

CDC Providers Only

See BEM 707 for provider disqualifications.

Standard Disqualification Periods FIP, SDA and FAP

The standard disqualification period is used in all instances except when a **court** orders a different period (see Non-Standard Disqualification Periods in this item).

Apply the following disqualification periods to recipients determined to have committed IPV:

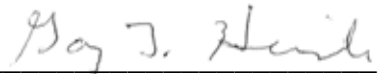
- One year for the first IPV.
- Two years for the second IPV.
- Lifetime for the third IPV.

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). This is Respondent's 1st Intentional Program Violation (IPV) of the Food Assistance Program and the Department may disqualify Respondent from receiving Food Assistance Program 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: July 3, 2014

Date Mailed: July 3, 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:

