

1. The Department's OIG filed a hearing request on October 7, 2013, to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. The OIG has has not requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of FIP FAP benefits issued by the Department.
4. Respondent was was not aware of the responsibility to report the starting of employment and earned income receipt.
5. Respondent had no 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 October 1, 2010 through August 31, 2011 for both FIP and FAP (fraud period).
7. During the fraud period, Respondent was issued \$6567 FIP and \$7348 FAP in benefits by the State of Michigan, and the Department alleges that Respondent was entitled to \$333 in FIP and \$2690 in FAP in such benefits during this time period.
8. The Department alleges that Respondent received an OI in benefits in the amount of \$6234 FIP and \$4658 FAP .
9. This was Respondent's first second third alleged IPV.
10. A notice of hearing was mailed to Respondent at the last known address and was 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence

Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 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 (7/1/13), 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 700 (7/1/13), p. 6; 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 alleges that the Claimant received an overissuance of both FIP and FAP benefits and committed an IPV because she failed to report employment and earnings in a timely manner. The Department alleges that Respondent received an overissuance of \$6234 FIP and \$4658 FAP, for a total overissuance of benefits of \$10,892 for the period beginning October 1, 2010 through August 31, 2011.

The evidence revealed that an application was filed by respondent in July 25, 2010 which indicated that the Respondent was not working due to the fact that she had undergone surgery. The Respondent also re-signed the application in August 13, 2010 after having resumed work. The re-signing was due to an interview being conducted. Exhibit 1, pp. 15 and 16 and page 22.

The Claimant at the time she re-signed the application had completed her first pay period since her surgery and was paid on August 21, 2010 \$149.51. The Claimant also applied for SER on January 25, 2011 and a second application on July 7, 2011 and neither application reports work. The Claimant's spouse testified that when they applied for SER the caseworker indicated that they only had to fill out the front and that he would take care of the rest of the application. No income was reported on either SER application. With regard to the SER applications, there could have been a miscommunication as the Respondent said there were no changes believing that the income was reported and that the caseworker and Department files reflected same as the applications for SER are incomplete; therefore, they do not indicate a failure to report. The January 25, 2011 SER application has no information other than the first page and the signature page and confirms the Respondent's testimony. The Respondent's spouse testified that he advised the Department when he began work at Wal Mart and reported the employment. The work was only seasonal, and pay stubs were provided. On August 3, 2011 a redetermination was completed at which time the Respondent reported working at [REDACTED] and her wages. Exhibit 8. The Respondent also testified that shortly after returning to work, she met with her case worker and the case worker had advised her that the fact that she had returned to work was reported and it was overlooked as it was written on the back of the case file. None of the caseworkers involved with the Respondent's case appeared on behalf of the Department.

After a thorough review of the written evidence and the testimony of the Respondent it is determined that the proofs presented did not establish and IPV for receipt of FIP and

FAP benefits. This finding is based upon the fact that none of the written documents failed to disclose information and were true at the time they were completed. The SER applications were incomplete, and the re-signed application in August 2010 was completed after an interview with the Claimant. As the incidents occurred at least 4 years prior to the hearing and none of the Respondent's testimony was rebutted by Department witnesses, it is determined that an IPV was not established by clear and convincing evidence.

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. 13.

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 (7/1/13), 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. 16.

In this case, as the Department did not establish an IPV its request for disqualification from receipt of FIP and FAP benefits must be denied.

Overissuance

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

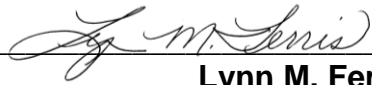
In this case, the Department alleges that Respondent received an overissuance of \$6234 FIP and \$4658 FAP for a total overissuance of benefits of \$10,892 for the period beginning October 1, 2010 through August 31, 2011. A thorough review of the overissuance budgets for both FIP and FAP was made using the [REDACTED] earned income summary for the Claimant's earnings with [REDACTED] Exhibit 1 pp 22-25. The budgets for both FIP and FAP as calculated are correct and the Department therefore is entitled to a finding of overissuance in the amount of \$6234 FIP and \$4658 in FAP benefits. The Department is entitled to recoup these benefit funds as the Respondent was not entitled to the benefits as she was working and had income during the period of the overissuance which income must be used to determine benefits.

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 established by clear and convincing evidence that Respondent did did not commit an intentional program violation (IPV).

2. Respondent did did not receive an OI of program benefits in the amount of \$10,892 from the following program(s) FIP \$6234, AND FAP \$4658
3. The Department is ORDERED to
 initiate recoupment procedures for the amount of \$6234 FIP AND \$4658 FAP in accordance with Department policy.


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

Date Signed: March 31, 2014

Date Mailed: March 31, 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.

LMF/cl

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