

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 14-017014  
Issue No.: 3006  
Case No.: [REDACTED]  
Hearing Date: March 25, 2015  
County: Hillsdale

**ADMINISTRATIVE LAW JUDGE:** Vicki Armstrong

**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 March 25, 2015, from Lansing, Michigan. The Department was represented by [REDACTED], Regulation Agent of the Office of Inspector General (OIG). Respondent personally appeared and testified.

**ISSUES**

1. Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) and Medicaid (MA) 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 December 7, 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 and MA benefits issued by the Department.

4. Respondent signed a Redetermination (DHS-1010) on May 20, 2013, acknowledging that he understood his failure to give timely, truthful, complete and accurate information could result in a civil or criminal action or an administrative claim against him. (Dept. Ex A, pp 13-16).
5. Respondent received \$ [REDACTED] in FAP benefits from the State of Michigan during the alleged fraud period of October 1, 2013, through May 31, 2014, and \$ [REDACTED] in MA benefits during the fraud period of October 1, 2013, through April 20, 2014. If Respondent had properly reported that he had moved to and was residing in Maine, Respondent would have been entitled to receive \$0 in FAP and MA benefits. (Dept. Ex A, p 3).
6. Respondent failed to report his move to Maine in a timely manner, resulting in a FAP overissuance of \$ [REDACTED] for the fraud period of October 1, 2013, through May 31, 2014, and a \$ [REDACTED] MA overissuance for the fraud period of October 1, 2013, through April 20, 2014.
7. Respondent was clearly instructed and fully aware of the responsibility to report all changes to the Department within 10 days.
8. Respondent did not have an apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
9. This was Respondent's first alleged IPV.

### **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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.105-.112k. .

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 \$500 or more, **or**
  - the total OI amount is less than \$500, **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, p 12 (10/1/2014).

#### 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 (10/1/2014), p 7; 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.

By signing the May 20, 2013, redetermination, Respondent acknowledged he was aware he could be prosecuted for fraud and be required to repay the amount wrongfully received and that he must report all changes within 10 days of the change.

### **Disqualification**

A court or hearing decision that finds a client committed an IPV disqualifies that client from receiving program benefits. BAM 720, p 15. 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 16.

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 (7/1/2013), 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.

### **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.

The Food Stamp Purchase history shows Respondent began using his Food Stamps exclusively in Maine beginning on August 15, 2013, through April 11, 2014.

The Bridges FAP Summary from October, 2013, through May, 2014, shows Respondent received \$ [REDACTED] in October, 2013, and \$ [REDACTED] a month in FAP benefits from November, 2013, to May, 2014. (Dept. Ex A, p 25). The summary supports Respondent was paid \$ [REDACTED] from October, 2013, through May, 2014. Had Respondent properly reported his move to Maine he would have been eligible to receive \$0 in FAP benefits. Hence, he received an overissuance of \$ [REDACTED] in FAP benefits for the fraud period.

Subsequent to an Investigative Data Request Form dated May 5, 2014, it showed Respondent received \$ [REDACTED] in MA benefits for the fraud period of October, 2013, through April, 30, 2014. (Dept. Ex A, pp 26-27).

Respondent credibly testified that he had gone to Maine on vacation and due to medical reasons was unable to return to Michigan. Respondent stated he tried on multiple occasions to notify his caseworker of his move to Maine without success. He also indicated that he believed he had switched to Maine MA and was unaware he was still receiving MA through Michigan.

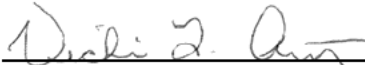
The Department has shown by clear and convincing evidence that Respondent received an OI of benefits. The OI was due to Respondent failing to timely report his move to Maine. According to BAM 700, the Department may recoup this OI.

## **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. Respondent did receive an OI of FAP benefits in the amount of \$ [REDACTED] and an OI of MA benefits in the amount of \$ [REDACTED]

The Department is ORDERED to initiate recoupment procedures for the total amount of \$ [REDACTED] in accordance with Department policy.

  
**Vicki Armstrong**  
Administrative Law Judge  
for Nick Lyon, Interim Director  
Department of Human Services

Date Signed: **3/30/2015**

Date Mailed: **3/30/2015**

VLA/las

**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:

[REDACTED]