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

IN THE MATTER OF:

[redacted]

Reg. No.: 14-017019
Issue No.: 2005, 3005
Case No.: [redacted]
Hearing Date: April 02, 2015
County: CALHOUN (DISTRICT 21)

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 April 2, 2015, 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. 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 that Intentional Program Violation (IPV) caused Respondent to receive a $[redacted] over-issuance of Food Assistance Program (FAP) benefits from February 1, 2012 to August 31, 2012 which the Department is entitled to recoup?

Whether Respondent committed an Intentional Program Violation (IPV) and whether that Intentional Program Violation (IPV) caused Respondent to receive a $[redacted] over-issuance of Medical Assistance benefits from February 1, 2012 to September 30, 2012 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 signed the affidavit in the June 3, 2011 Assistance Application (DHS-1171) certifying notice 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. Respondent committed an Intentional Program Violation (IPV) by intentionally failing to report earned income.

4. In accordance with Bridges Administration Manual (BAM) 720 February 1, 2012 has correctly been determined as the start of the over-issuance period associated with this Intentional Program Violation (IPV).

5. During the over-issuance period, Respondent received a $[redacted] over-issuance of Food Assistance Program benefits and a $[redacted] over-issuance of Medical Assistance benefits.

6. This is Respondent's 1st Intentional Program Violation (IPV).

7. The Department's OIG filed a disqualification hearing request on December 8, 2014.

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 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 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.

Bridges Administration Manual (BAM) 720 Intentional Program Violation (2014) governs the Department's actions in this case. The Department's OIG requests IPV hearings for the following cases:

> 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 $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.

Intentional Program Violation

BAM 720 states that a 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.

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. In other words, the Department must show that the Respondent engaged in a fraudulent act or omission they knew would result in receiving assistance they were not eligible for.

In this case, the Department presented an Assistance Application (DHS-1171) that Respondent submitted to the Department prior to the alleged OI period. This application is sufficient to establish that Respondent certified knowledge of reporting requirements as well as the conditions that constitute fraud/IPV and trafficking and the potential consequences.

Subsequently Respondent began receiving earned income on December 15, 2011 and did not report it. The fact that Respondent was sent notice showing their benefit amount was based on no income shows that Respondent understood an increase of income would change the amount of benefits they were eligible for.

This constitutes clear and convincing evidence that Respondent was aware of the responsibility to report changes and that they intentionally failed to report the income with knowledge that doing so would reduce their benefits. Therefore, the Department has established that Respondent committed an IPV.

Over-issuance Period
BAM 720 states that 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.

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

In this case, the Department submitted evidence showing that Respondent began working on December 15, 2011. Applying these requirements, the over-issuance period was properly calculated to begin February 1, 2012.

Over-issuance Amount
BAM 720 states the over-issuance amount is the benefit amount the client actually received minus the amount the client was actually eligible to receive. The Department presented a benefit summary showing that the State of Michigan issued Respondent $[redacted] of Food Assistance Program benefits and $[redacted] of Medical Assistance benefits during the over-issuance period. In accordance with the over-issuance budgets submitted by the Department, Respondent was actually eligible for no Food Assistance Program or Medical Assistance benefits. Respondent received a $[redacted] over-issuance of Food Assistance Program benefits and $[redacted] over-issuance of Medical Assistance benefits.

Disqualification
BAM 720 states that a court or hearing decision that finds a client committed an IPV disqualifies that client from receiving program benefits. 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.

Clients who commit an IPV are disqualified for a standard disqualification period of one year for the first IPV, two years for the second IPV and a lifetime disqualification for the third IPV.

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 benefits and $[redacted] over-issuance of Medical Assistance benefits that the Department is entitled to recoup.

This is Respondent's 1st Intentional Program Violation (IPV) of both the Food Assistance Program and Medical Assistance and the Department may disqualify Respondent from receiving benefits in accordance with Department of Human Services Bridges Administration Manual (BAM) 720.

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

Gary Heisler
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **4/3/2015**

Date Mailed: **4/3/2015**

GFH/hj

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]