

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-001091  
Issue No.: 3005  
Case No.: [REDACTED]  
Hearing Date: April 15, 2015  
County: INGHAM

**ADMINISTRATIVE LAW JUDGE:** Susanne E. Harris

**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 Regulations, 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 15, 2015, from Lansing, Michigan. The Department was represented by [REDACTED] of the Office of Inspector General (OIG). The Respondent did not appear at the hearing and it was held in the Respondent's absence pursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5).

**ISSUES**

Did the Respondent commit an Intentional Program Violation (IPV) and thereby receive an over issuance (OI) of the Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

**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 January 30, 2015 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. The Respondent was a recipient of FAP benefits issued by the Department.

4. The Respondent signed an Assistance Application indicating that she was aware of the responsibility to report changes in her residence to the Department.
5. The Respondent may have had physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. The Respondent began using FAP benefits outside of the State of Michigan beginning in March 2012.
7. The OIG indicates that the time period they are considering the fraud period is September 1, 2012 to February 28, 2012.
8. During the alleged fraud period, the Respondent was issued [REDACTED] in FAP benefits from the State of Michigan.
9. This was the Respondent's first alleged IPV.
10. A notice of hearing was mailed to the Respondent at the last known address and was returned by the US Post Office as undeliverable.

#### **PROCEDURAL HISTORY**

In this case, the Department also alleged that the Respondent committed an IPV and thereby received an over issuance of the SDA program. The Notice of Hearing in this matter was returned as undeliverable and as such, the alleged SDA IPV is dismissed.

#### **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 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 (2012), 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 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 Administrative Law Judge discovered, upon a thorough review of the evidence that the Respondent reported that she was awaiting a decision regarding receiving disability benefits. Also, the Assistance Application the Respondent reported she was not able to work because she had cancer. This evidence was not discussed during the hearing. As such, this Administrative Law Judge evidence is insufficient to establish, by a clear and convincing standard, that the Respondent did not have a physical or mental impairment which would interfere with her reporting responsibilities

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law concludes that the Department has not established by clear and convincing evidence that Respondent committed an IPV.

*Susanne E. Harris*

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Susanne E. Harris  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

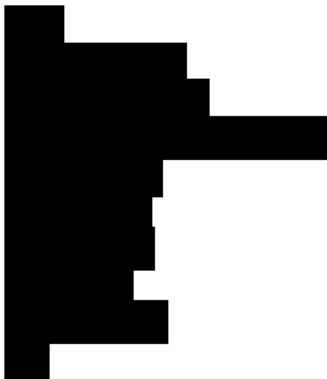
Date Signed: **5/8/2015**

Date Mailed: **5/8/2015**

SEH/sw

**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:

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