

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-006265  
Issue No.: 3005  
Case No.: [REDACTED]  
Hearing Date: June 09, 2015  
County: WAYNE-DISTRICT 18 (TAYLOR)

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

**HEARING DECISION FOR  
INTENTIONAL PROGRAM VIOLATION**

Upon the request for a hearing by the Department of Health and 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 45 CFR 235.110, and with Mich Admin Code, R 400.3130 and R 400.3178. After due notice, a telephone hearing was held on June 9, 2015, from Lansing, Michigan. The Department was represented by [REDACTED], Regulation Agent 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 April 29, 2015 to establish an OI of benefits received by the Respondent as a result of the Respondent having allegedly committed an IPV by failing to report her correct address on her initial Assistance Application.
2. The OIG has requested that the Respondent be disqualified from receiving program benefits.

3. The Respondent was a recipient of FAP benefits issued by the Department.
4. On the Assistance Application signed by the Respondent on January 3, 2014, the Respondent acknowledged she was aware of the responsibility to truthfully report her household circumstances to the Department and represented her statements on the Assistance Application to be true.
5. The Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. The OIG indicates that the time period they are considering the OI period is January 3, 2014 to May of 2014.
7. During the alleged OI period, the Respondent was issued [REDACTED] in FAP benefits from the State of Michigan.
8. This was Respondent's first alleged IPV.
9. A notice of hearing was mailed to Respondent at the last known address and was not returned by the US Post Office as undeliverable.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), and Department of Health and Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) 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 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.

BAM 720 (2013), 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.

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 concludes that the Department has met its burden of proving, by a clear and convincing standard, that the Respondent misrepresented her address on her Assistance Application, as well as her household composition of three. During a home visit, the Department discovered that the Respondent actually lived with her child's father and at least one other person. Possibly, the other two individuals had income which would affect the Respondent's FAP budget and eligibility. The Department alleges that the Respondent misrepresented her residence in order to get her own assistance case. The Administrative Law Judge concludes that the Respondent misrepresented information for the purpose of

establishing eligibility for FAP (or a higher benefit level of FAP) than she would have otherwise been eligible for had she accurately reported her household circumstances. Therefore, the Administrative Law Judge concludes that the Respondent has committed her first IPV.

### **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. 12.

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 or FAP. BAM 720, p. 13. 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. 13.

In this case, the Administrative Law Judge has concluded that the Respondent has committed her first IPV. As such, the appropriate disqualification period to be imposed is one year.

### **Overissuance**

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OI. BAM 700 (2013), p. 1. In this case, the evidence is not clear as to whether the Respondent would have been eligible for FAP benefits at all or whether she would have remained eligible for a much smaller monthly allotment of FAP if she had accurately reported her household circumstances. As such, the evidence is insufficient to establish the accurate amount of the OI that the Respondent received. The matter should be referred to a Recoupment Specialist to complete OI budgets to determine the exact amount of the OI. Once completed, the Department can pursue the OI in accordance with departmental policy.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law concludes that the Department has established by clear and convincing evidence that the Respondent committed an IPV. The Department is **ORDERED** to impose a disqualification period in accordance with departmental policy.

*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: **6/10/2015**

Date Mailed: **6/10/2015**

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. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

cc:

