Alberta Darling

Wisconsin State Senator
Member, Joint Committee on Finance

Testimony in Favor of Senate Bill 245: Public Assistance Fraud

Dear Chairwoman Vukmir and committee members:

Back in July, the Milwaukee Journal found a mother and her daughter receiving upwards of $150,000 in public assistance over the last five years while collecting thousands of dollars every month from several rental properties in the Milwaukee area. This same woman was tied to $4 million worth of rental properties.

Unfortunately for taxpayers, this was not an isolated incident.

This fall, the Journal Sentinel reported about a Mequon businessman who owns or co-owns four rental properties, runs a math and reading tutoring business and lives in a $460,000 home received taxpayer-funded food and health benefits.

Stories like these prompted the Governor to ask the Department of Health Services (DHS) to come up with some internal policies, among the changes are reinstating asset limits for people seeking food benefits; requiring people who report they are self-employed to submit tax returns; improving data communication among all state departments; and creating a fraud prevention task force.

Abuse of the public funds is a real problem for the state of Wisconsin costing taxpayer's money and reducing the amount of funds available to help people who are in need of assistance. This bill will send a message that fraud will not be tolerated stealing from people who these programs are designed to help is a crime.

Senate Bill SB 245 would move statutory provisions with criminal penalties for public assistance fraud from Chapter 49: Social Services, to the criminal code - Chapter 946: Crimes against Government and its Administration. Under the bill, the Department of Justice or a district attorney is authorized to prosecute violations of criminal laws affecting ***any*** public assistance program, including W-2, FoodShare, and MA.

Currently local district attorneys can request help from the Justice Department, but cases often go unprosecuted because of a lack of local resources.It takes up time, it's expensive for them, and the just don't have the personnel to handle this when violent criminals fill up the court rooms.

This bill should work in correlation with the governor's six strategies for increasing fraud prevention and internal policy changes within DHS.

We have offered an amendment to lower the cost of the bill, I will let legislative council describe it.

Thank you for the opportunity to testify.

WISCONSIN DEPARTMENT of CHILDREN AND FAMILIES

201 East Washington Avenue, Room G200
P.O. Box 8916
Madison, WI 53708-8916
Telephone: 608-266-8684
Fax: 608-261-6972

Governor Scott Walker
Secretary Eloise Anderson

Secretary's Office

MEMORANDUM

Date: November 20, 2013

To: Senate Committee on Health and Human Services

From: Sara Buschman, Assistant Deputy Secretary

Re: Department Position on 2013 SB 245 - Support

The Department of Children and Families (DCF) would like to express support for SB 245 and thanks Senator Darling for her leadership in proposing another tool for the Department's anti-fraud efforts.

SB 245 will raise awareness of crimes committed against the state of Wisconsin and taxpayers by fraudulent use and procurement of public assistance benefits. It moves the provisions that provide a penalty for public assistance fraud from Chapter 49 (Social Services) to Chapter 946 (Crimes against Government and its Administration). This change will help to prevent fraud in government programs by strengthening the penalties for misuse of taxpayer dollars. Taxpayers expect resources to be directed toward parents who play by the rules and follow the law, especially during a difficult economy

This bill also authorizes the Department of Justice (DOJ) or a District Attorney (DA) to prosecute violations related to public assistance programs, which allows for more efficiency and effectiveness in prosecuting cases across various programs and departments. The Department agrees with authorizing DOJ to prosecute violations of public assistance programs. Referrals handled by DOJ would streamline the process for prosecution across all public assistance programs statewide and maximize available resources. This change will especially assist Wisconsin Works (W-2) agencies in counties where there are a small number of cases referred for prosecution and limited resources. In addition, authorizing DOJ to prosecute violations centralizes referrals at the state-level and this would demonstrate to the public the state's proactive response to public assistance fraud.

The Department does recommend minor technical changes to strengthen the original version of the bill which we have communicated to Senator Darling:

- Retain the descriptions of criminal violations within Chapter 49 and refer penalties to Chapter 946.
- Revise the language in s. 946.90 to clarify that criminal offenses also relate to individuals receiving child care subsidies under s. 49.155. Under s. 946.90, the section references an individual as a "participant in Wisconsin Works" and services as a "Wisconsin Works benefit or payment."

DCF has expressed concerns to the author with the provision in SB 245 regarding administering an oath, but it is our understanding that Senator Darling will be offering an amendment to remove that language. The Department is supportive of this change for several reasons. First, the current language on public assistance applications serves this purpose. Second, applicants are provided information on their rights and responsibilities of participation in the program including penalties for violations. Lastly, not administering an oath would have no impact on current program integrity and anti-fraud efforts created in recent legislation.

Should the committee feel compelled to keep this provision in, the Department would suggest mirroring the language Michigan uses where applicants for public assistance have written testaments where the individual certifies that that information is true and correct to the applicant's knowledge.

In the past two sessions, the legislature has enacted a variety of measures to expand and enhance state oversight of public assistance programs the Department administers. As stewards of taxpayer dollars, the Department appreciates the tools the legislature has given us to carry out program integrity activities.

JOURNAL INTERACTIVE PRINTTHIS

Watchdog Report

Landlords, self-employed get state aid on honor system

Regulators fail to verify income for taxpayer-supported benefits

By Raquel Rutledge of the Journal Sentinel
July 6, 2013

Editor's note: *This story has been corrected to reflect details the Journal Sentinel learned since its original publication.*

Marina Kolchinsky Porush describes herself as an *agunah*, an orthodox Jewish woman abandoned by her husband. Living a life in limbo: Not officially divorced, forbidden to remarry. Left destitute to care for her six sons.

She needs food and medical assistance, child care and Supplemental Security Income, among other public support, she says. She and the boys have received more than $150,000 worth of taxpayer-funded benefits in the last five years.

What she fails to tell the state in her application for the help, however, is that she collects thousands of dollars in rent every month from at least $4 million worth of properties in Shorewood, the east side of Milwaukee and elsewhere.

Porush says the properties are not hers, despite Milwaukee County property and tax records and court documents that list her as an owner or having substantial interest.

"My mother owns all the property," she told the Journal Sentinel. "I don't get a penny."

Porush's 80-year-old mother, Lidia Kolchinsky, lives with her in the downstairs unit of a 4,300-square-foot duplex on N. Shepard Ave. listed in multiple public records as owned by Porush. Kolchinsky's name is included as a co-owner of several of the properties.

But Kolchinsky doesn't disclose the rental income either on her application for benefits. She, too, receives government assistance.

State regulators wouldn't comment specifically on the benefits received by Porush or Kolchinsky, but a Journal Sentinel investigation found the cases — and others like them — reveal a gap in regulation that affects every public assistance program in the state.

The problem is fairly simple: Local and state regulators fail to verify actual income when applicants report that they make no money or are self-employed.

If an applicant claims he earns $2,000 a month painting houses, for example, regulators accept what he reports on a one-page form as fact. While those who oversee the program can request tax returns as proof, if applicants report their businesses are less than six months old, tax returns are not required.

"We have no way to check that this is what they made the year before they applied," said one public assistance fraud investigator in southeastern Wisconsin who requested anonymity because she is not authorized to speak about the issue. "Basically we're supposed to accept what they tell us."

There is no cap on assets to be eligible for most public assistance programs. Recipients can own millions' worth of real estate. But they are required to disclose income from those properties.

It's unclear whether Porush would be eligible for taxpayer-supported benefits had she accurately reported income and expenses from the rentals. As it stands, state regulators don't know.

As a matter of policy, they don't check.

"We can't be asking information on that because they (the properties) don't impact eligibility," said Claire Smith, spokeswoman for the state Department of Health Services.

When a recipient-to-be signs the application, "that is the proof," Smith said.

The government considers much of the information about recipients of public assistance to be confidential, making it impossible for the public to hold regulators accountable for oversight of the dozen or so taxpayer-funded programs, from W-2 to FoodShare and BadgerCare.

To tell this story, the Journal Sentinel reviewed hundreds of pages of public records, interviewed frontline workers and others familiar with the programs, and received from sources internal documents exposing costly weaknesses in Wisconsin's roughly $9 billion a year safety net system for the needy.

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In December 2012, when Porush renewed her request for public assistance, she disclosed no income from rental properties.

She didn't mention the house on N. Murray Ave. near the University of Wisconsin-Milwaukee assessed at $286,000. One tenant there told the Journal Sentinel he and his roommates pay $1,100 a month for their unit.

The house has three other units, according to Nick Weide, the property manager. Weide said Porush hired his small company a few years ago to manage some of her properties. He collects the rent and takes a cut but would not say to whom he makes out the checks, only noting of Porush: "She gets her money."

The Journal Sentinel found public records tying Porush to at least eight properties, not including a house in Glendale in her mother's name or one in Shorewood first linked to Porush in 1998 that bankers foreclosed on in March.

ATC Financial Services has rented space in a small strip mall near N. 89th St. and W. Silver Spring Drive from Porush for about eight years, according to owner Ike Good.

"She's the only one I've ever dealt with," he said.

Property records list Miriam Porush as the owner. Miriam is Porush's Hebrew name.

Monthly rent over the years has ranged from $800 to $1,200, Good said. He said he makes his payments to Rainbow Plaza, a limited liability company with another LLC listed as its registered agent. That company's registered agent is Lidia Kolchinksy, Porush's mother.

The Journal Sentinel was able to interview tenants at four of the eight properties linked to Porush.

Three residential properties alone generate an estimated annual income of at least $70,000 after subtracting property taxes, according to information from the tenants and calculations by the Journal Sentinel. A search of records filed with the Milwaukee County Register of Deeds Office found no mortgages recorded for two of the three.

The income is likely much higher as it does not include rent from the other properties, three of which are commercial buildings, including a 37,000-square-foot shopping center in South Milwaukee.

Frank Marinello owns a barbershop in the center and said he hands Porush a $720 payment every month made out to an LLC, in which court records show Porush retains an interest, and is now in bankruptcy. Other tenants include an Ace Hardware store, a restaurant and an insurance company.

At a federal court hearing in June attended by Porush and her mother, an attorney representing the LLC said that property and another were doing well and generating income.

"Tenants are paying the bills," said attorney John Menn. "There is enough money built up where various tenant improvements can be made. ... There's a significant equity cushion here, as well."

Yet Porush, 52, maintains she doesn't work and gets nothing from the properties.

She and her children received more than $38,000 worth of taxpayer-supported benefits in 2012, including about $12,000 in food stamps.

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Porush came to the United States along with her family in 1981 from Russia and settled in Milwaukee.

She quickly enrolled at UWM, receiving two undergraduate degrees in 1983; one in applied math and physics, the other in computer science.

Two years later, she completed a master's degree in electrical engineering and computer science at Marquette University.

"She's very intelligent," said Mary Payne, an attorney who represented Porush over the years. Payne declined to comment further citing attorney-client privilege. Payne sued Porush in 2011 over unpaidlegal bills.

Porush worked for various companies such as AT&T and Motorola.

She married Mordechai Porush in June 1994, joining a wealthy and powerful family in Israel.

According to Marina Porush, he is a distant cousin of the late Menachem Porush, an ultra-orthodox, longtime member of the Israeli legislature.

Court records show it was an arranged marriage with promises in writing. Mordechai Porush pledged to feed, clothe and sustain her, according to the marriage agreement, known as a *ketubah.*

The following year their first son was born. Five more would soon follow.

But the marriage deteriorated.

In 2005 Mordechai Porush was convicted of battery for a domestic violence incident. Marina Porush accused him of trying to strangle her. He was sentenced to 30 days in jail and a year of probation. The court issued a temporary restraining order against Mordechai Porush and he moved to Illinois, and later back to Israel.

The couple divorced in Milwaukee County Circuit Court in 2009.

In court transcripts, Porush argued that her husband should pay the tuition for the children to attend the Yeshiva School — a cost of about $30,000 a year after a $10,000 annual grant. In other court records, Porush purports to use the school choice voucher program. The Journal Sentinel obtained documents confirming the children attend the Yeshiva School but was unable to determine who pays the tuition.

The couple also talked about selling their jointly owned condo in Jerusalem.

In child-support discussions, Mordechai Porush accused his wife of manipulating the process.

"Wife has substantial rental income," he alleged, according to notes taken by the hearing official. "She is mismanaging over $11 million dollars in assets."

He said the couple had been living on the rental income and that he made little money doing odd jobs.

The Journal Sentinel was unable to reach Mordechai Porush.

Throughout the records, Marina Porush maintained she has no money and blamed her troubles on Mordechai Porush, who has refused to grant her a decree of divorce under Jewish and Israeli law. The lack of the formal religious divorce, or *get* as it's called, forbids the woman in the relationship from dating or remarrying.

"He's holding me hostage," Porush told the Journal Sentinel.

She criticized him for not abiding by their marriage agreement and called on the Jewish community for support of her and her sons, who are now between the ages of 10 and 18.

In a public Facebook posting dated Dec. 1, 2012, Porush wrote she was fooled into marrying Mordechai Porush. She said she didn't know he was a member of the politically prominent Porush family.

"Now I have been waiting for 18+ years to free myself," she wrote. "Which of you is going to help remove our chains????? Who has the guts???????? Shame on all Jews who are sitting doing nothing while I and my children are suffering."

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Marina Porush first applied for public benefits in Wisconsin in 1997 when she and Moredechai Porush moved back from Israel. At the time, the couple had three sons. Marina Porush received small amounts of food assistance on and off over the next several years ending in 2003.

Then in 2006 she applied for Badger Care.

In 2008 state regulators got a tip that Porush had undisclosed income and was cheating the health care subsidy program. They launched an extensive investigation across three state agencies, discovered her ties to rental properties and concluded that she underreported her income and owed the state more than $20,000 in health care benefits for which she should not have qualified.

They found many discrepancies in what Porush said compared with results of the follow-up investigation, one county worker noted in a 2009 memo on the Badger Care money.

They found she lied about vacancies at her properties, claiming half of 17 units at one location were vacant when investigators found there were actually 22 units and all were occupied. She also said she had not filed tax returns in several years, even though she had submitted an IRS form as proof of income. And she supplied bank records that regulators deemed "questionable."

Credit reports showed she was paying creditors nearly $8,200 a month and was not in arrears.

Court documents also confirm she had one-third interest in a couple of the LLCs and was getting an undisclosed amount of income from a laundromat that she and her mother operated.

In one court transcript from 2009, Porush's own attorney refers to the real estate holdings of Porush and her family's LLCs as an "empire," stating that the properties are "viable" and "likely to succeed."

"There is substantial equity in them," wrote Richard Frederick, who represented Porush in a case filed against her by Associated Bank.

When confronted by regulators, Porush "became irate, verbally abusive and continued to make threats to sue this agency," wrote Vickie Campbell, a program integrity worker with the Milwaukee County Health and Human Services Department.

Porush alleged regulators "were out to get her because she was a Russian Jew," the memo states.

Despite the findings, the state dropped its pursuit of the money and continued to allow Porush access to BadgerCare and other public assistance programs.

Why?

Porush had transferred the properties out of her name into her parents' names using quit claim deeds. The move was prompted by an earlier clash with another government agency: The City of Milwaukee.

In 2006, the city ordered Marina Porush and her family out of their house on N.Shepard Ave. for having too many occupants. The Department of Neighborhood Services found she was illegally renting part of her duplex to as many as seven college students in a space permitted for two. Porush was cited for a similar violation five months earlier but refused to correct the problem, city officials noted in a news release at the time.

"A landlord's pursuit of profits while ignoring tenant safety will not be tolerated in Milwaukee," then-Ald. Mike D'Amato said in the release.

Porush filed for and received a stay of the eviction and her family remained in the house.

She sued in federal court, alleging the city unconstitutionally took her private property.

The case was dismissed.

Porush later told the courts she transferred the properties out of her name on her attorney's advice.

However, she never recorded the transfers with the register of deeds office. So, while the transfers may be legally binding for the parties, they are meaningless to creditors and anyone interested in purchasing the properties if the deeds are not recorded.

"She can say whatever she wants," said Larry Eckert, Milwaukee County Deputy Register of Deeds. "Until she records those documents, the properties are hers, as far as we are concerned. ...Her parents would never be able to sell those properties."

Wisconsin law does not require quit claims to be recorded. However, if they are not filed with the register of deeds office, banks and title companies won't recognize the change in ownership.

Yet the deeds were enough to thwart regulators.

An administrative law judge determined the government "failed to meet its burden in proving that the petitioner's income exceeded program limits..."

"There are no state wage matches, letters from employers verifying the petitioner's income or documents from financial institutions indicating any deposits of money," wrote Joseph Nowick, the administrative law judge.

On Sept. 28, 2009, the case was closed.

"Wrote off claim per DOJ request," a regulator, identified only as DWD747, wrote in Porush's file.

Given the all-clear, Porush's benefits soon began to balloon.

The following year she began collecting food stamps, again, along with her medical assistance. The year after that she added W-2 payments and child care assistance. And last year she received a caretaker supplement and Social Security disability payments, known as Supplemental Security Income or SSI, along with the benefits from the other four programs.

And, from 2009 through 2011 she collected more than $29,000 in unemployment compensation after reporting that she got laid off from one of the family's LLCs where she said she had worked for about a year and a half.

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State regulators do not know what percentage of the 1.1 million people receiving benefits in Wisconsin report they are self-employed. The Department of Health Services said it would cost between $7,000 and $9,000 to calculate the figure for the Journal Sentinel. Census data indicate roughly 10% of the general population who filed taxes in 2011 reported being self-employed.

If applicants for aid receive income from agencies or wages from established corporations that report figures to the IRS, regulators can cross-reference other databases to see if the information the applicant reports matches.

That's not the case when applicants report being self-employed or having no earned income.

Instead, the income maintenance workers who process the applications depend on tax returns — supplied by applicants rather than the IRS, making them easier to forge. Or, if the business is new, they rely on a a self-employment income report form, known as SEIRF. The form requests information about business income and expenses and the number of hours worked per month.

"When the SEIRF form is signed, the application certifies that the information given is accurate to the best of their knowledge," according to department guidelines. "The member is responsible for providing accurate information."

"There is not a way for income maintenance workers to verify the accuracy of the proof," Smith, spokeswoman for the health services department, wrote in an email.

While regulators are allowed to request bank statements if they suspect fraud, they count on applicants to disclose which bank they use. People can cheat the system by not reporting all accounts they keep at multiple financial institutions, regulators said.

Intake workers are supposed to automatically consider self-employment income "questionable" because it's difficult to verify, according to the Badger Care Plus employee handbook.

Yet the handbook gives them little authority to ask questions, instructing employees to use caution when seeking information from applicants. Even past convictions for fraud are off limits.

"Do not require a member to provide verification for the sole reason that they have acknowledged or been convicted of fraud in any other public assistance or employment program," the handbook says.

And in recent years the computer programs processing the applications have been simplified, making it less likely regulators might spot red flags.

"In order to avoid over-verification and increase efficiency, some verification fields have been enhanced to default to 'not questionable,'" an October 2010 memo to eligibility workers states.

Functional changes were made to "decrease agency workload" and "improve program participation and retention rates," it reads.

It's unknown just how widespread the cheating is, but a fraud hotline set up in 2011 by the state Department of Health Services suggests it's costly to taxpayers.

The department receives about 300 tips every month, the vast majority about eligibility concerns such as people under-reporting their income and receiving benefits.

"We were rather surprised," Alan White, health services department inspector general, told the Journal Sentinel. "We expected the number would decline over time."

Instead, it has remained steady.

"We spend eight to 10 hours a day trying to prevent fraud," he said. "Meanwhile, someone is spending 24 hours a day trying to beat us."

Gov. Scott Walker initiated the creation of an inspector general's office within the department of health services in 2011. The new office was designed to consolidate the department's program integrity and fraud prevention efforts and added 19 positions.

The office now has 106 full-time staffers, a $12 million annual budget and reports investigating hundreds of cases of suspected fraud every month.

However, few recipients end up losing benefits or being criminally charged. In 2012, for example, an average of 17 people a month were suspended from the Food Share program statewide.

One program, the SeniorCare prescription drug benefit, hasn't had a single fraud case processed.

And while local agencies across Wisconsin report that they completed nearly 5,000 fraud investigations last year, in Milwaukee County, where about one-third of the caseloads lie, just a handful of recipients were criminally charged with bilking the system.

Prosecutors cite a number of reasons more cases aren't charged. For one, criminal cases require law enforcement to investigate and as it stands there are no coordinated efforts among all departments involved, said David Feiss, an assistant district attorney in Milwaukee County who specializes in public assistance fraud.

Feiss noted the crackdown on fraud in the child care subsidy program in recent years included a task force with members from police and sheriff's departments as well as local and state regulators and state and federal prosecutors. The crackdown came after a yearlong investigation by the Journal Sentinel prompted public calls for reform, which regulators later said saved taxpayers more than $100 million in the first two years alone.

"There has to be buy-in from all departments," he said. "Those are relationships, in my judgment, that are critical."

At the federal level, prosecutors say that while collective sums are significant, the amount of money from individual cases often is not enough to pursue.

"All of our sentencing guidelines are driven by the amount of loss," said Assistant U.S. Attorney Richard Frohling, who heads up the criminal division. "Without significant losses, we aren't getting the stiff sentences and it just feeds the problem."

Fraud experts agree that upfront verification of eligibility is key to weeding out unscrupulous applicants.

Early scrutiny is important, in part, because once applicants are approved, caseworkers often help enroll the applicants in multiple programs, exacerbating the impact. And qualifying for some programs, such as Supplemental Security Income, automatically opens the door to other programs, including medical assistance and the Caretaker Supplement.

"It's more effective to stop money from going out the door than it is to get it back," White said.

Yet essentially all that stands between a thief who claims to be self-employed and access to thousands of taxpayer dollars is a one-page form.

Excluding information is easy, especially when it comes to pinning down income from rental properties.

Regulators don't typically search for property owned by applicants because there is no longer any cap on non-liquid assets for most assistance programs. The Legislature dropped asset checks in 2001 as a condition of receiving federal funds for subsidized health care programs.

Consider the case of Akram Khan and Ayesha Syed.

The couple own and live with their two small children in a $460,000 house in Mequon. Their names are individually or jointly tied to four rental properties in Milwaukee as well as a math and reading tutoring business in Mequon.

They have a BMW, an Acura and a Honda Pilot.

Their four rental properties have a total assessed value of nearly $360,000.

Residents at two of their duplexes in Milwaukee told the Journal Sentinel they pay Khan their rent in cash or money orders every month. Those two properties alone generate $2,600 per month, or $31,200 a year, based on tenants' comments.

Yet when Khan applied for public assistance in 2012, he disclosed only one rental property.

He reported that he earns $2,084 a month from his Kumon tutoring business, but says he loses that amount each month from his rental property, wiping out the income.

He received food and medical benefits of about $13,000 in 2012 and the first part of this year.

Khan told the Journal Sentinel he did nothing wrong and defended his enrollment in the subsidized health care program.

"We applied and we got accepted," he said. "I don't think I made any false statements on the application.

"I'm not looking for a handout."

He said he didn't know how much he earned every month from his tutoring business and blamed the omission of the properties on his tax accountant. And, he said, one of his properties was vacant for more than a year.

As in Porush's case, it's unclear whether Khan would be eligible for any public assistance if he disclosed complete income and expenses from all his rental properties, as is required. Once again, given what Khan supplied, the state doesn't know.

State regulators say they are testing a new program to identify assets and get a better handle on income.

The system, called IntegriMatch, is designed to contain information from 400 financial institutions and match bank accounts with people receiving certain types of medical assistance.

But it's only being used in a limited capacity, targeting people enrolled in long-term care programs. It is not being used for the much larger FoodShare, Badger Care Plus and other public assistance programs.

In the six or so months it's been in place, it's generated fewer than 10 claims.

And as it's used now, it would never flag Khan or Porush.

Porush told the Journal Sentinel she now suffers from post traumatic stress disorder as a result of her husband's abuse. She cited the disability when applying for child care benefits in 2011. She was approved and also qualified for Caretaker Supplement to care for her children, generating $1,700 per month.

She told the Journal Sentinel she is not able to work.

"For me to get up in the morning out of bed takes a lot of medication," she said. "I don't own the properties because I cannot take care of the properties."

But tenants say she does take care of the properties.

Porush's explanation: "I have an obligation as the only daughter, to help my mother. I will do what my mother cannot do."

Porush declined to share her financial records with the Journal Sentinel.

"It's my mother's privacy, my family's business," she said.

Lidia Kolchinsky declined to comment.

Last year Kolchinsky enrolled in the SeniorCare prescription drug program — avoiding any deductible — claiming her only income is the $11,134 she receives from Social Security.

Her reported self-employment earnings: $0.

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How to report fraud

Contact the state Department of Health Service's Office of the Inspector General at (877) 865-3432 orwww.reportfraud.wisconsin.gov.

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Correction: *An earlier version of this story cited a 1992 Milwaukee Sentinel account that announced Marina Kolchinsky Porush had married Yaniv Loran of Canada while she lived in Ohio. The two were engaged but cancelled the wedding shortly beforehand. Porush has been married only once, in June 1994 to Mordechai Porush and the couple divorced in Milwaukee County Circuit Court in 2009.*

The article also said that Porush and her family were kicked out of their house on N. Shepard Ave. in 2006 by the City of Milwaukee for having too many occupants. They were ordered out based on an enforcement action against running "an illegal rooming house" and a Feb. 28, 2006 news release from the City Department of Neighborhood Services said the family would "have to leave their home this week." Porush sought and received an injunction to stay the eviction. Ultimately, the tenants left and she remained in the home.

In light of the complicated and ongoing legal proceedings involving Porush and the properties, the Journal Sentinel is continuing to report this story.

Find this article at:
http://www.jsonline.com/watchdog/watchdogreports/landlords-self-employed-get-state-aid-on-honor-system-b9929264z1-214508041.html

☐ Check the box to include the list of links referenced in the article.

A Journal Sentinel Watchdog Update

State opens investigation into 2 public assistance cases

Income from properties not listed on woman's application for food, health aid

By Raquel Rutledge of the Journal Sentinel
Sept. 7, 2013

The state health department's Office of Inspector General is investigating whether an east side Milwaukee woman tied to $4 million worth of rental properties and a Mequon businessman are each rightfully receiving food, health and other taxpayer-funded benefits.

The move follows a Journal Sentinel investigation published July 7 that exposed widespread failures by state and local regulators to verify actual income when applicants for public assistance report they are self-employed or have no income. Regulators depend largely on a one-page form and say the signed form and application are "the proof" that applicants are being truthful.

The investigation detailed how the Milwaukee woman, Marina Kolchinsky Porush, collects thousands of dollars in rent every month from properties listed in court records and by the Milwaukee County Register of Deeds as belonging to her or to limited liability companies in which she has interest, but she does not disclose income from the properties on her applications for benefits.

Porush and her six children have received more than $150,000 worth of public benefits in the last five years, according to an analysis by the Journal Sentinel.

Porush denies receiving any income from the properties.

The investigation also described the case of Akram Khan, a Mequon man who runs a tutoring business and owns or co-owns four rental properties but includes information from only one on his tax return and application for benefits.

Owning property or other assets is not a barrier to qualifying for most public assistance programs. It's the income from the properties that factors into eligiblity. Recipients can have millions worth of real estate and still be eligible for most programs. However, they are required to disclose income from those properties or assets.

A few programs such as long-term care and a Social Security disability benefit known as Supplemental Security Income, or SSI, have asset caps that disqualify applicants with retirement accounts or other assets valued at $2,000 or more.

It's unclear whether Khan or Porush would be eligible for public assistance had they reported income and expenses from all rental properties.

Porush maintains that she doesn't receive any money from the rental properties and that she doesn't own them. She says the properties belong to her 80-year-old mother, Lidia Kolchinsky, who lives in Porush's 4,300-square-foot duplex on N. Shepard Ave., and her mother's LLCs. Kolchinsky's name is included in public records as a co-owner of several of the properties.

Court records indicate that Porush is a member of at least two of the LLCs and that she and her mother are the sole members. Porush's father, David Kolchinsky, was also listed as having interest in several of the LLCs. He died in 2010.

Two days after the Journal Sentinel investigation was published, regulators requested Porush's 2012 tax returns in an attempt to verify her income.

Porush then submitted a tax return and insolvency worksheet, signed July 18, 2013, stating she has no income and $3.8 million in liabilities — of which more than $1 million stems from mortgages on rental properties.

Porush also reported having a retirement account worth $9,500 — an asset that fraud investigators not involved in her case say itself should exclude her from two of the subsidy programs in which she is enrolled.

The Wisconsin Department of Revenue could not find tax records for Porush for 2012 or 2011.

Porush included a letter to regulators saying, "I volunteer helping my mother about 10-20 hours per week depending on how I feel ...I don't get paid for volunteering my time any money."

On July 24, regulators entered the latest information provided by Porush into the system and processed the case, according to comments in her file. Records show her benefits continued.

Records reviewed by the Journal Sentinel don't indicate when the inspector general's office launched the investigations, but their existence was first noted in caseworkers' comments Aug. 5.

Porush, 52, has reported in at least two recent applications for child care assistance that she is unable to work. She was approved for SSI, and also Caretaker Supplement for caring for her children, benefits worth about $1,900 per month.

Tenants of two rental properties linked to Porush recently told the Journal Sentinel that Porush manages the properties, handling their leases, rent and other landlord-tenant issues.

Porush has been involved in at least 10 lawsuits relating to the rental properties and has appeared in court on behalf of one LLC and other properties more than two dozen times since 2006.

Porush's attorney, Arthur Beck, wrote in response to Journal Sentinel questions about Porush's property management and court-related activities: "How does that constitute work? Ms. Kolchinsky's personal legal interests are at stake in these proceedings and her appearance or non appearance are directly related to protecting her own legal interests."

There is no evidence that such activities "constitute work," he wrote.

Beck said Porush's disclosure of the $9,500 retirement account is "potentially 100% inadvertent and incorrect" and might require a supplemental filing in the future.

He also noted Porush reverted to her maiden name, Kolchinsky, after her divorce in 2009. However, she uses Porush on her public assistance-related documents.

Porush moved to the United States in 1981. She has two undergraduate degrees from the University of Wisconsin-Milwaukee — one in applied math and physics, the other in computer science — and a master's degree in electrical engineering and computer science from Marquette University.

Credibility is 'problematic'

U.S. Bankruptcy Judge Susan Kelley, who has been presiding over the bankruptcy proceedings of a limited liability company linked to Porush, said in court recently that Porush's credibility is "problematic."

"She is not a credible person. Period," Kelley said in court July 25.

"The very first hearing we had you testified you are not the one running the LLC, it's your mother, but you had been in my court, as a representative of that LLC, and had testified in another case," Kelley told Porush. "You have a million excuses, ma'am, and a million people to blame. This is enough."

Porush's connection to the LLC surfaced in a 2007 bankruptcy-related case involving a tenant who ran a business out of two buildings owned by the LLC. Records in that case show Porush was the primary person involved with the lease and rental payments. In at least once instance, in November 2006, a check for rent was made out to Miriam Porush for $8,930, according to court documents. Miriam is Porush's Hebrew name.

Kelley was not the first judge to comment on Porush's credibility.

The issue came up in 2009 in a case against the state that Porush ultimately won. Regulators suspected Porush was receiving income she was not disclosing and tried to recoup more than $20,000 worth of medical benefits for which they claimed she should not have qualified.

"Petitioner's testimony is not credible," Sean Maloney, an administrative law judge for the state's Division of Hearings and Appeals, wrote about Porush in a May 2009 decision.

Porush hadn't filed tax returns in several years and offered no explanation as to why. Maloney said the failure "calls into question both her credibility and her organizational skills."

In addition, Porush claimed she didn't receive several notices sent by regulators.

"Petitioner offers no credible explanation as to why she would not have received the notices," Maloney said. He called Porush's argument "unconvincing," and said it directly conflicted with the credible testimony of the fraud investigator.

Beck, Porush's attorney, disagreed with Maloney's assessment, spelling out his reasons over five pages in a brief filed later in circuit court.

Beck criticized the actions of the fraud investigator and said the fact that Porush had not filed tax returns was irrelevant to the issue of credibility, noting that the state's publicly funded medical program does not require tax returns be filed with the federal government. Porush was confused about the state Department of Children and Families' collection efforts and other proceedings, he said.

"The simple fact is that DCF (The state Department of Children and Families) is trying to recover from an indigent woman, $22,542.84 of necessary medical benefits to which she and her family were legally entitled because, as a Russian immigrant, she could not follow the convoluted, bifurcated, punitive legal process employed by DCF," Beck wrote.

In the end, the state lost that case. Another administrative law judge previously concluded the state had not met its burden of proof in determining Porush'sincome had exceeded eligibility guidelines.

In coming to his conclusion, that first administrative law judge, Joseph Nowick, noted Porush "has only herself to blame for the actions taken by the county agency." By not filing state or federal taxes for several years she made it difficult to refute regulators' allegations and gave them "every right to pursue this matter."

The government's continued pursuit of repayment from Porush after Nowick's ruling, however, was not justified, a circuit court judge later concluded, ordering the state to pay a portion of Porush's legal fees.

Porush sought to have the state pay $51,400 for attorney fees and costs. Milwaukee County Circuit Judge William Pocan awarded $20,310, shaving off fees for months of work that he said stemmed from Porush not submitting financial documentation earlier, and cutting Beck's hourly rate.

Beck filed a motion for reconsideration. His motion was denied.

Questions regarding Senior Care

The Journal Sentinel found public records tying Porush to at least eight properties, not including a house in Glendale in her mother's name.

And while Porush says the properties belong to her mother, Kolchinsky does not report any income from any of the properties on her application for public assistance. She is enrolled in the state's Senior Care prescription drug program, which is open to everyone age 65 and older, but deductible amounts are based on income. On Kolchinsky's 2012 application for Senior Care, she reported her only income was from Social Security. She pays no deductible.

The Senior Care application asks for "expected annual income" from sources such as gross wages, gross Social Security, net self-employment and retirement income. Rental income, after deducting operating expenses, is to be included in the "other income" category, according to the application instructions.

Notes in Kolchinsky's file say her 2011 Senior Care application "had retirement information on it." The caseworker, identified only as XCP391, wrote that she called Kolchinsky to confirm the retirement information and then deleted it after Kolchinsky reported her only income was from Social Security.

Beck, who is also representing Kolchinsky, recently told the Journal Sentinel he was unaware of the retirement information initially listed on Kolchinsky's Senior Care application and refused to answer whether Kolchinsky receives a pension or any other income from a retirement account. He also declined to answer why she didn't include rental property information.

"Ms. Kolchinsky simply stands by the fact that the information on her Senior Care application is accurate as presented," he wrote in response to the Journal Sentinel's questions.

The Wisconsin Department of Revenue could not find tax records for Kolchinsky for 2010, 2011 or 2012.

Nothing in Kolchinsky's file indicates that state or federal regulators are investigating her benefits case.

Rent payments in cash, money orders

State officials would not comment on the investigations into Porush or Khan, the Mequon businessman.

"The Office of Inspector General and other staff in the Department of Health Services takes these situations seriously and we continue to review the issue," Claire Smith, spokeswoman for the department, wrote in an email.

Khan and his wife, Ayesha Syed, own and live with their two small children in a $460,000 house on N. Ridgeway Ave. Their names are individually or jointly tied to four rental properties in Milwaukee as well as a math and reading tutoring business called Kumon in Mequon.

Their four rental properties have a total assessed value of nearly $360,000.

Residents at two of their duplexes in Milwaukee told the Journal Sentinel they pay Khan their rent in cash or money orders every month. Those two properties alone generate $2,600 per month, or $31,200 a year, based on tenants' comments.

Yet when Khan applied for public assistance in 2012, he disclosed only one rental property.

He reported that he earns $2,084 a month from his Kumon tutoring business, but said he loses that amount each month from his rental property, wiping out the income.

He received food and medical benefits of about $13,000 in 2012 and the first part of this year.

Khan declined to comment for this story. His attorney, Martin Kohler, did not answer detailed questions and would only say: "There are things that happen. Families fall on hard times even though they have an appearance of affluence."
