



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: December 9, 2016
MAHS Docket No.: [REDACTED]
Agency No.: [REDACTED]
Petitioner: [REDACTED]
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

**ORDER OF DISMISSAL PURSUANT TO
IMPROPERLY MAILED NOTICE OF HEARING**

Upon the request for a hearing by the Michigan Department of Health and Human Services (MDHHS), 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 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. The hearing was scheduled for [REDACTED], from Detroit, Michigan. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], regulation agent with the Office of Inspector General. Respondent did not appear.

On [REDACTED], MDHHS requested a hearing to establish Respondent received an overissuance of benefits due to an intentional program violation (IPV). On [REDACTED] the Michigan Administrative Hearing System mailed a Notice of Hearing to Respondent. The hearing notice was returned as undeliverable.

Federal law allows for an IPV hearing to be held for Food Assistance Program-related allegations. If the notice [of hearing] is sent using first class mail and is returned as undeliverable, the [IPV] hearing [for FAP benefits] may still be held. 7 CFR 273.16 (e)(3)(i). The present case concerns an allegation of FAP benefits.

An implied requirement of federal law is that a Notice of Hearing be mailed to the last known address of Respondent. MDHHS testimony indicated the Notice of Hearing was mailed to Respondent's last listed address in the MDHHS database. MDHHS testimony conceded the IPV allegations against Respondent included knowledge of a more current residential address for Respondent.

Based on presented evidence, it is found the Notice of Hearing was mailed to an improper address of Respondent's. Federal regulations are not interpreted to allow for

an IPV hearing to move forward in such an instance. Accordingly, the MDHHS hearing request is **DISMISSED WITHOUT PREJUDICE**.

CG/hw



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

Respondent

[REDACTED]
[REDACTED]
[REDACTED]