



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: March 3, 2017

MAHS Docket No.: [REDACTED]

Agency No.: [REDACTED]

Petitioner: [REDACTED]

Respondent: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

**HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION AND  
OVERISSUANCE**

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. After due notice, a telephone hearing was held on [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 was unrepresented and did not appear for the hearing.

**ISSUES**

The first issue is whether MDHHS established Respondent received an overissuance of benefits.

The second issue is whether MDHHS established that Respondent committed an intentional program violation (IPV).

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of [REDACTED], Respondent was a parole absconder.
2. Respondent intentionally misreported to MDHHS parole absconder status.

3. From [REDACTED], Respondent received an OI of [REDACTED] in FAP benefits.
4. On [REDACTED], MDHHS requested a hearing to establish Respondent received an OI of [REDACTED] in FAP benefits from [REDACTED] due to an IPV.
5. As of the hearing date, Respondent had no previous history of IPV.

### **CONCLUSIONS OF LAW**

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. MDHHS (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-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

MDHHS requested a hearing, in part, to establish Respondent received an overissuance of benefits. MDHHS presented an unsigned Intentional Program Violation Repayment Agreement (Exhibit 1, pp. 5-6) dated [REDACTED]. The document alleged Respondent received [REDACTED] in over-issued FAP benefits from [REDACTED]. MDHHS alleged the OI was based on Respondent's status as a parole absconder.

When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the overissuance. BAM 700 (January 2016), p. 1. An overissuance [bold lettering removed] is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. *Id.* Recoupment [bold lettering removed] is a MDHHS action to identify and recover a benefit overissuance. *Id.*, p. 2.

[For FIP and FAP benefits,] a person who is violating a condition of probation or parole imposed under a federal or state law is disqualified. BEM 203 (October 2015), p. 3. The person is disqualified as long as the violation occurs. *Id.*

MDHHS presented an Order of Probation (Exhibit 1, pp. 31-33). The order was signed by a Michigan county judge on [REDACTED]. Various probation requirements were stated.

MDHHS presented a Motion, Affidavit, and Summons Regarding Probation Violation (Exhibit 1, p. 34). The document alleged Respondent failed to pay probation costs.

MDHHS presented a Motion, Affidavit, and Bench Warrant (Exhibit 1, pp. 35). A judge signed the warrant on [REDACTED].

MDHHS presented a Public Access Case Event Report (Exhibit 1, pp. 36-38) for Respondent's court case history. Respondent's probation violation was noted. Through the last case event, dated [REDACTED], no indication of probation compliance was indicated.

During the hearing, the Offender Tracking Information System (OTIS) was checked. OTIS is a website that provides public information of MDOC offenders. Respondent was listed as active absconder since [REDACTED].

MDHHS presented a portion of Respondent's FAP benefit history (Exhibit 1, pp. 68-70). Issuances to Respondent from [REDACTED] totaled [REDACTED].

Respondent's responses on presented reporting documents were indicative that Respondent was the only member of the FAP benefit group throughout the alleged OI period. As the only group member, a disqualification of Respondent would justify a total disqualification of FAP benefit eligibility.

Presented evidence established Respondent was a parole absconder during the alleged OI benefit period. MDHHS established that Respondent received an OI of [REDACTED] in FAP benefits. The analysis will proceed to determine if the OI was caused by an IPV.

The Code of Federal Regulations defines an IPV. Intentional program violations shall consist of having intentionally: (1) made a false or misleading statement, or misrepresented, concealed or withheld facts; or (2) committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system. 7 CFR 273.16 (c).

[An IPV is a] benefit overissuance resulting from the willful withholding of information or other violation of law or regulation by the client or his authorized representative. Bridges Program Glossary (October 2015), p. 36. 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 their reporting responsibilities.

BAM 720 (January 2016), p. 1; see also 7 CFR 273(e)(6).

IPV is suspected when there is **clear and convincing** [emphasis added] evidence that the client or CDC provider has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program

benefits or eligibility. *Id.* 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. It is a standard which requires reasonable certainty of the truth; something that is highly probable. Black's Law Dictionary 888 (6th ed. 1990).

MDHHS presented Respondent's handwritten Assistance Application (Exhibit 1, pp. 9-24). The application was signed and dated by Respondent on [REDACTED]. The application stated that Respondent's signature was certification that Respondent reviewed and agreed with the application's Information Booklet; the Information Booklet informs clients of various MDHHS policies, including the requirement of reporting changes within 10 days.

MDHHS presented Respondent's handwritten Assistance Application (Exhibit 1, pp. 39-59). Respondent's signature was dated [REDACTED]. Respondent checked "No" in response to a question asking, "Is anyone in violation of probation or parole?" Respondent left blank a follow-up question, "If yes, who?"

MDHHS presented a Redetermination (Exhibit 1, pp. 60-65). Respondent's signature was dated [REDACTED]. Respondent checked "No" in response to the question, "Is anyone currently in violation of probation or parole?"

Clients must completely and truthfully answer all questions on forms and in interviews. BAM 105 (July 2015), p. 8. A failure to truthfully answer questions is highly indicative of a fraudulent intent.

As of [REDACTED], Respondent was a parole absconder. Multiple reporting documents misreported Respondent's absconder status.

Generally, a client's written statement which contradicts known facts is clear and convincing evidence of an IPV. Evidence was not presented to rebut the generality. Presented evidence also established Respondent was aware of the duty to accurately report information. No evidence was presented to suggest Respondent was unaware of reporting requirements.

It is found MDHHS clearly and convincingly established that Respondent committed an IPV. Accordingly, it is found MDHHS may proceed with disqualifying Respondent from benefit eligibility.

The standard disqualification period is used in all instances except when a court orders a different period. BAM 725 (January 2016), p. 16. [MDHHS is to] apply the following disqualification periods to recipients determined to have committed an IPV... one year for the first IPV... two years for the second IPV[, and] lifetime for the third IPV. *Id.*

MDHHS did not allege Respondent previously committed an IPV. Thus, a 1 year disqualification period is justified.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established that Respondent committed an IPV based on receipt of [REDACTED] in over-issued FAP benefits from [REDACTED]. The MDHHS request to establish an overissuance and a 1 year disqualification period against Respondent is **APPROVED**.

CG/hw



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**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]  
[REDACTED]

[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Respondent**

[REDACTED]  
[REDACTED]  
[REDACTED]