



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: August 8, 2017  
MAHS Docket No.: 17-007425  
Agency No.: [REDACTED]  
Petitioner: OIG  
Respondent: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**HEARING DECISION FOR CONCURRENT BENEFITS  
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, 42 CFR 431.230(b), 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 [REDACTED], from Detroit, Michigan. The Department was represented by [REDACTED] of the Office of Inspector General (OIG).

Respondent did not appear at the hearing and it was held in 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**

1. Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) and Medical Assistance (MA) benefits that the Department is entitled to recoup?
2. Did the Department establish, by clear and convincing evidence, that Respondent committed an Intentional Program Violation (IPV)?
3. Should Respondent be disqualified from receiving FAP?

**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 [REDACTED], to establish an OI of benefits received by Respondent as a result of Respondent having received concurrent program benefits and, as such, allegedly committed an IPV.
2. The OIG has requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of FAP and MA benefits issued by the Department.
4. On the Assistance Application signed by Respondent on [REDACTED] Respondent acknowledged her responsibility to report changes within 10 days that might affect her eligibility to receive benefits from the State of Michigan.
5. Respondent was aware of the responsibility to report changes in her/his residence to the Department.
6. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
7. Respondent began using FAP benefits outside of the State of Michigan beginning in [REDACTED]. Exhibit A, p. 41.
8. The OIG indicates that the time period they are considering the fraud period is [REDACTED] for FAP; and [REDACTED], [REDACTED], for Medical Assistance. Exhibit A, p. 5.
9. During the alleged fraud period, Respondent was issued \$ [REDACTED] in FAP benefits from the State of Michigan. During the fraud period, the Respondent was issued \$ [REDACTED] in Medical Assistance.
10. During the alleged fraud period, Respondent was issued FAP benefits from the State of [REDACTED]
11. This was Respondent's **first** alleged IPV, and the Department has requested a 10-year disqualification due to concurrent receipt of benefits.
12. A notice of hearing was mailed to Respondent at the last known address and **was not** returned by the United States Postal Service 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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Effective October 1, 2014, 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 \$500.00 or more, or
  - the total amount is less than \$500.00, 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 (January 2016), p. 5.

### **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 700 (January 2016), p. 7; 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 Department alleges that Respondent committed an IPV because she received FAP benefits from the State of Michigan at the same time she received food assistance benefits from the State of ██████████. A person cannot receive FAP in more than one state for any month. BEM 222 (July 2013), p. 3.

In support of its IPV allegations, the Department presented (i) a Michigan application Respondent submitted on September 16, 2015, in which she provided a Michigan address as her home address (Exhibit A, pp. 10-38); (ii) an email from the Nebraska Children and Family services in response to the Department's email inquiry concerning Respondent, identified by name, birthdate and Social Security Number, showing that Respondent was issued food assistance benefits by the State of ██████████ from ██████████ ██████████ ██████████ ██████████, with a break and resumption in ██████████ (Exhibit A, pp. 49-43) A copy of the Respondent's ██████████ application was also provided, (Exhibit A pp. 50-57); (iii) a transaction history showing that Respondent used her Michigan-issued food benefits in ██████████ between ██████████ and ██████████, and then resumed usage of Michigan benefits in ██████████ ██████████, (Exhibit A, pp. 41-47); and (iv) a benefit summary inquiry showing that the Department issued FAP benefits to Respondent between ██████████ and ██████████, (Exhibit A, pp. 71). In addition the Department established a ██████████ address for Respondent, (Exhibit A, pp. 49-50.) While in ██████████ the Department also established that Respondent was employed by ██████████ with a hire date of ██████████ which employment was not reported to Michigan, (Exhibit A, p. 69.)

The evidence presented establishes that between ██████████ ██████████ ██████████ ██████████ the Respondent received Michigan-issued FAP benefits, and during the same period, received food assistance benefits issued by the State of ██████████. The evidence also established that Respondent used her Michigan-issued FAP benefits in ██████████ beginning ██████████. The evidence was sufficient to show, by

clear and convincing evidence, that Respondent received food benefits from both the State of Michigan and from the State of [REDACTED] concurrently.

Thus, the Department established by clear and convincing evidence that Respondent committed an IPV of FAP benefits based on concurrent receipt of benefits.

### **Disqualification**

A court or hearing decision that finds a client committed an IPV disqualifies that client from receiving program benefits. BAM 720, p. 15. A disqualified recipient remains a member of an active group as long as he/she lives with them, and other eligible group members may continue to receive benefits. BAM 720, p. 16.

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. 16.

As discussed above, the Department has established by clear and convincing evidence that Respondent committed an IPV through concurrent receipt food assistance benefits from two states at the same time. BEM 720, p. 16.

### **Overissuance**

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OI. BAM 700, p. 1. The amount of a FAP OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 720, p. 8; BAM 715 (January 2016), p. 6; BAM 705 (January 2016), p. 6.

In this case, the Department alleged a \$ [REDACTED] overissuance during the fraud period based on Respondent's concurrent receipt of benefits. Respondent was not eligible for FAP benefits issued by the State of Michigan during any period she was issued food assistance benefits by the State of [REDACTED] BEM 222, p. 3. The evidence showed that Respondent received food assistance benefits from the State of [REDACTED] [REDACTED]; and during the entire period, she received FAP benefits from the State of Michigan. Therefore, Respondent was not eligible for any of the FAP benefits she received from the State of Michigan.

The benefit summary issuance presented by the Department showed that during the fraud period, Respondent received \$ [REDACTED] in Michigan FAP benefits, (Exhibit A, p. 75.) Because Respondent was not eligible for concurrent receipt of benefits, she was not eligible for any of the FAP benefits issued during the fraud period.

In addition, Respondent received MA from the State of Michigan for the month of [REDACTED], which she was in [REDACTED] and receiving FAP benefits and thus, received an overissuance of MA for \$ [REDACTED] (Exhibit A, p. 76.)

Thus, the Department is entitled to recoup and/or collect \$ [REDACTED] from Respondent for overissued FAP benefits and \$ [REDACTED] for overissued MA.

### **DECISION AND ORDER**

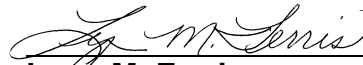
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, concludes that:

1. The Department **has** established by clear and convincing evidence that Respondent committed an IPV.
2. Respondent **did** receive an OI of FAP benefits in the amount of \$ [REDACTED]
3. Respondent **did** receive an OI of MA benefits in the amount of \$ [REDACTED]

The Department is ORDERED to initiate recoupment/**collection** procedures for the amount of \$ [REDACTED] FAP and \$ [REDACTED] MA in accordance with Department policy. The total recoupment/collection amount is \$ [REDACTED]

It is FURTHER ORDERED that Respondent be personally disqualified from participation in the FAP program for 10 years.

LMF/jaf



---

**Lynn M. Ferris**  
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]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Respondent**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]