



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: October 2, 2017  
MAHS Docket No.: 17-004137  
Agency No.: 118951239  
Petitioner: [REDACTED]  
Respondent: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Vicki Armstrong

### **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 Regulation (CFR), particularly 7 CFR 273.16, 42 CFR 431.230(b), 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 September 6, 2017, from [REDACTED], Michigan. Respondent personally appeared and testified.

The Department was represented by [REDACTED], Regulation Agent of the Office of Inspector General (OIG). [REDACTED] testified on behalf of the Department. The Department submitted 25 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

### **ISSUES**

1. Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) 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 benefits for 12 months?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on 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 that Respondent allegedly committed a FAP IPV. [Dept. Exh. 1].
2. The OIG has requested that Respondent be disqualified from receiving FAP benefits.
3. The OIG alleges Respondent attempted to obtain an EBT Card by offering on Twitter, five separate times, to buy a bridge card from [REDACTED], through [REDACTED], in violation of DHHS and FNS rules. [Dept. Exh. 4].
  - a. On [REDACTED], Respondent posted on [REDACTED], "does anybody have a bridge card for sale or know anyone who has a bridge card for sale? Hmu ASAP!!" [Dept. Exh. 10].
  - b. On [REDACTED], Respondent posted on [REDACTED], "I need a bridge card." [Dept. Exh. 10].
  - c. On [REDACTED], Respondent posted on [REDACTED], "So anybody selling a bridge card or know somebody selling one?" [Dept. Exh. 10].
  - d. On [REDACTED], Respondent posted on [REDACTED], "Can somebody find me a bridge card? PLEASE". [Dept. Exh. 10].
  - e. On [REDACTED], Respondent posted on [REDACTED], "Can somebody please find me a food stamp card though 😊 PLEASE!!" [Dept. Exh. 10].
4. The [REDACTED] postings did offer to buy bridge cards.
5. The [REDACTED] postings did not list amounts.
6. The [REDACTED] postings did not list cash.
7. There were no responses to the Twitter postings.
8. Respondent was a recipient of Medicaid benefits issued by the Department.
9. Respondent was not a FAP recipient.
10. Respondent credibly testified that she never had any FAP benefits, never used FAP benefits, and never bought any FAP benefits.
11. This was Respondent's first alleged IPV.

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

In this case, the OIG alleges that Respondent trafficked FAP benefits by attempting to obtain or acquire an EBT card on Twitter. The Department relies on BAM 720 p 1 (1/1/2016), which directs that an "IPV is suspected for a client who is alleged to have trafficked FAP benefits."

Trafficking means "attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone. 7 CFR 271.2.

The Department must show by clear and convincing evidence that Respondent committed an IPV. 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 Respondent made five separate posts on [REDACTED] asking about anyone selling a bridge card. Respondent never offered to buy a bridge card and never offered cash or consideration for a bridge card. Respondent received no responses to her [REDACTED] posts and Respondent never obtained, acquired or attempted to buy a bridge card.

Attempt is defined as to "make an effort to do, accomplish, solve or effect." [REDACTED] Here, Respondent posted on [REDACTED], "does anybody have a bridge card for sale or know anyone who has a bridge card for sale?" Then on [REDACTED], Respondent posted, "I need a bridge card." On [REDACTED], Respondent posted, "Can somebody find me a bridge card?" Then on [REDACTED], Respondent posted, "So anybody selling a bridge card or know somebody selling one?" Respondent's last post was on [REDACTED], "Can somebody please find me a food stamp card though 😞 PLEASE!!"

The Twitter posts themselves are asking if anyone knows of a bridge card for sale, has one for sale, or can find her a bridge card. There are no Twitter posts offering to obtain or acquire a bridge card.

Therefore, the Department failed to present clear and convincing evidence that Respondent attempted to buy FAP benefits for cash or consideration because Respondent never posted that she intended to buy the bridge card and no cash or consideration were ever actually mentioned, exchanged or attempted to be exchanged for a bridge card.

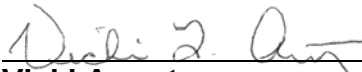
**DECISION AND ORDER**

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 not established by clear and convincing evidence that Respondent committed an IPV.

The Department is **ORDERED** to delete the OI and cease any recoupment action.

VLA/bb



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**Vicki Armstrong**  
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]

**Petitioner**

[REDACTED]

**Respondent**

[REDACTED]