



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 23, 2018
MAHS Docket No.: 17-012829
Agency No.: [REDACTED]
Petitioner: OIG
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 March 8, 2018, 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 38 exhibits which were admitted into evidence. The case 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?

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 August 10, 2017, to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
2. The OIG has requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of FAP benefits issued by the Department.
4. Respondent credibly testified that she had a previous hearing on this same issue and time frame and she has been repaying the overissuance ever since.
5. Regulation Agent [REDACTED] testified that the initial overissuance for the same time period was for \$ [REDACTED] and Respondent had paid \$ [REDACTED] towards it and was still in the payment process.
6. On August 22, 2016, Administrative Law Judge [REDACTED] issued a Hearing Decision, docket number 16-009554, indicating the Department indicated that Respondent received a FAP OI during the period of January 1, 2016, through June 30, 2016, due to Respondent's error. Further, the Department indicated that Respondent received a \$ [REDACTED] overissuance that was still due and owing to the Department. The Department's decision was affirmed, and the Department was ordered to initiate collection procedures for the \$ [REDACTED] FAP OI in that Hearing Decision.
7. The Department's OIG alleges that the time period it is considering the fraud period in the above captioned matter is January 1, 2016, through June 30, 2016 (fraud period).
8. The Department alleges that Respondent received an OI in FAP benefits in the amount of \$ [REDACTED]

CONCLUSIONS OF LAW

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).

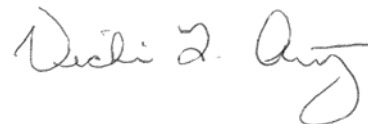
The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) 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 Administrative Law Judge carefully reviewed and compared the Hearing Decision of August 22, 2016, to the facts in the above captioned case. Here, the Department was already collecting the overissuance from Respondent based on the August 22, 2016 Hearing Decision. In that case, the Department alleged that the overissuance was the result of Respondent's error. (emphasis added). The Department cannot come back now and allege that Respondent committed an Intentional Program Violation.

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, if any, concludes that:

1. Respondent did receive an OI of program benefits in the amount of \$ [REDACTED] of which she has already paid and is still paying toward, based on the aforementioned August 22, 2016, 16-009554 Hearing Decision.
2. The Department has not established by clear and convincing evidence that Respondent committed an IPV.
3. Respondent shall not be disqualified from receiving FAP benefits.
4. It is FURTHER ORDERED that the alleged Intentional Program Violation in this IPV case against Respondent be DISMISSED.



VLA/nr

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]