



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED] - [REDACTED]

Date Mailed: June 12, 2018
MAHS Docket No.: 17-016967
Agency No.: [REDACTED]
Petitioner: OIG
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, 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 scheduled for June 6, 2018, from Detroit, Michigan. The hearing was held on the scheduled hearing date and at least 30 minutes after the scheduled time. The Michigan Department of Health and Human Services (MDHHS) was represented by Jason Rupp, regulation agent, with the Office of Inspector General. Respondent did not appear for the hearing.

ISSUE

The 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. On March 11, 2014, Respondent submitted a State Emergency Relief (SER) application to MDHHS. Respondent's application was accompanied by an incident report detailing that Respondent's previous address suffered a house fire. (Exhibit A, pp. 55-64)
2. On an unspecified date, Respondent submitted to MDHHS a lease agreement. The lease stated that Respondent would be renting a home for \$[REDACTED]/month.

3. On April 15, 2014, Respondent was the owner of the residential address from the lease agreement. (Exhibit A, p. 69)
4. On May 6, 2014, MDHHS issued to Respondent SER payments of \$ [REDACTED] for security deposit and \$ [REDACTED] for a first month's rent. (Exhibit A, pp. 67-68)
5. On December 18, 2017, MDHHS requested a hearing to establish that Respondent committed an IPV related to an alleged \$ [REDACTED] overpayment in SER.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by MDHHS pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

MDHHS requested a hearing to establish an IPV against Respondent. MDHHS did not seek to establish a corresponding disqualification or overissuance, just an IPV countable in Respondent's IPV history. MDHHS alleged that Respondent committed an IPV by receiving SER for a rent and security deposit of a home that she allegedly owned. Before evaluating the merits of MDHHS' allegation, it must first be determined if an IPV can be established under the present case's circumstances.

The Emergency Relief Manual does not appear to provide for any guidance on MDHHS' pursuit of an IPV. The Bridges Administrative Manual states the following about pursuit of IPV's based on SER:


Refer SER and ESS overissuances to the RS **only** when IPV is suspected **and** a FIP, SDA or FAP overissuance also exists for the same period. Follow procedures in the SER manual for recoupment of SER. [bold lettering added] BAM 720 (October 2017) p. 4.

Under BAM 720, MDHHS can only pursue an IPV for SER when it is combined with another program. In the present case, MDHHS did not allege an SER-related IPV tied to another benefit program. Under the circumstances, MDHHS cannot pursue an IPV. Accordingly, MDHHS is denied their request to establish that Respondent committed an IPV based on SER.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish an IPV against Respondent. The MDHHS request to establish an IPV against Respondent is **DENIED**.

CG/



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) 763-0155; 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

Kathleen Verdoni
MDHHS-Saginaw-Hearings

Petitioner

MDHHS-OIG-Hearings

Respondent

[REDACTED]
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MAHS