



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: July 24, 2018
MAHS Docket No.: 18-005490
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

**HEARING DECISION FOR
INTENTIONAL PROGRAM VIOLATION**

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 July 18, 2018, from Detroit, Michigan. The hearing was held on the scheduled hearing date and at least 30 minutes after the scheduled hearing time. The Michigan Department of Health and Human Services (MDHHS) was represented by Allyson Carneal, regulation agent, with the Office of Inspector General. Respondent did not appear for the hearing.

ISSUE

The issue is whether MDHHS established by clear and convincing evidence that Respondent committed an intentional program violation (IPV) which justifies imposing a disqualification against Respondent.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

- From June 30, 2017, through May 4, 2018, Respondent received ongoing biweekly income from an employer (hereinafter "Employer"). Respondent's pays included the following:

July 14, 2017	\$ [REDACTED]
July 28, 2017	\$ [REDACTED]
August 11, 2017	\$ [REDACTED]
August 25, 2017	\$ [REDACTED]
September 8, 2017	\$ [REDACTED]

Respondent also received at least \$[REDACTED]/month in income from September 2017 through December 2017. (Exhibit A, pp. 34-36)

2. On July 26, 2017, Respondent submitted to MDHHS an application for Food Assistance Program (FAP) benefits. Boilerplate language stated that the client's signature is certification that an information booklet was read (which includes information that clients are to report changes to MDHHS within 10 days). (Exhibit A, pp. 11-30)
3. On August 3, 2017, MDHHS documented Respondent's FAP application interview. Respondent reported that she was off from work for the summer. Respondent reported that she received a 39-hour check for vacation time on July 14, 2017, but would receive no other income until September. Respondent was advised of the responsibility to report changes within 10 days. (Exhibit A, pp. 31-32)
4. On August 8, 2017, MDHHS mailed Respondent a Notice of Case Action informing Respondent of an approval of FAP benefits from July 2017. A budget summary stated that Respondent's eligibility was based on \$[REDACTED]/month in employment income. (Exhibit A, pp. 37-40)
5. On November 13, 2017, Respondent submitted to MDHHS a Semi-Annual Contact Report (SACR). Respondent checked "No" in response to a question asking if monthly income had changed by more than \$100 from the budgeted income amount of \$332. (Exhibit A, pp. 41-42)
6. On May 7, 2018, MDHHS calculated that Respondent received an overissuance of \$[REDACTED] in FAP benefits from October 2017 through April 2018 due to under-reported income from Employer. (Exhibit A, pp. 43-55)
7. From October 2017 through April 2018, Respondent received a total of \$[REDACTED] in FAP benefits. (Exhibit A, pp. 56-57)
8. On May 7, 2018, MDHHS requested a hearing to establish an IPV disqualification of two years against Respondent. (Exhibit A, p. 1)
9. As of the date of hearing, Respondent had one previous IPV disqualification. (Exhibit A, p. 58)
10. During all relevant times, Respondent had no apparent impairment to understanding or fulfilling reporting requirements.

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' Hearing Summary and testimony alleged that Respondent committed an IPV by misreporting and/or failing to report employment income information. MDHHS made similar or identical allegations in an Intentional Program Violation Repayment Agreement (Exhibit A, pp. 5-6) sent to Respondent as part of MDHHS' prehearing procedures.

When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the overissuance. An overissuance is the amount of benefits issued to the client group in excess of what it was eligible to receive. Recoupment is an MDHHS action to identify and recover a benefit overissuance. BAM 700 (January 2016), pp. 1-2.

FAP groups with countable earnings are assigned to the simplified reporting (SR) category. This reporting option increases FAP participation by employed households and provides workload relief. Simplified reporting groups are required to report only when the group's actual gross monthly income (not converted) exceeds the SR income limit for their group size. No other change reporting is required. If the group has an increase in income, the group must determine their total gross income at the end of that month. If the total gross income exceeds the group's SR income limit, the group must report this change to their specialist by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday. BAM 200 (December 2013), p. 1.

Respondent's reporting on a SACR dated November 13, 2017, reported less than \$100 in income changes from a monthly amount of \$[REDACTED]. Thus, Respondent reported that her gross employment income did not exceed \$[REDACTED]/month. Respondent's total income from September 2017, October 2017, November 2017, and December 2017 exceeded \$2,000. Given the evidence, Respondent's income reporting on the SACR was a misreporting.

Respondent's misreporting could be deemed accidental if her income only slightly exceeded the \$[REDACTED]/month income reported by Respondent. Respondent's actual monthly employment income was approximately five times the \$[REDACTED] income reported by Respondent. The significant discrepancy between Respondent's reported income and actual income renders it clear and convincing that Respondent purposely misreported her income.

For good measure, MDHHS documented a second misreporting by Respondent. Respondent's specialist documented that Respondent verbally reported that she would not receive income after July 14, 2017, until September 2017. In fact, Respondent received regularly scheduled biweekly pays through August 2017. Though Respondent's verbal misreporting did not factor into an overissuance of FAP benefits, the misreporting is consistent with an intent to misreport income.

Respondent's misreporting of employment income clearly and convincingly established that Respondent intended to misreport for the purpose of receiving an overissuance of FAP benefits. MDHHS established that Respondent received \$[REDACTED] in FAP benefits from October 2017 through April 2018 due to misreporting. Thus, MDHHS established an IPV by Respondent.

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 presented Respondent's IPV history which listed one previous IPV disqualification period starting August 1995. Thus, the present case is Respondent's second IPV and a 2-year disqualification period is merited.

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 justifying a two-year disqualification period. The MDHHS request to establish an IPV disqualification against Respondent is **APPROVED**.

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

Carisa Drake
MDHHS-Calhoun-Hearings

Petitioner

MDHHS-OIG-Hearings

Respondent

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

M Shumaker
Policy Recoupment
C Gardocki
MAHS