



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
MI [REDACTED]

Date Mailed: January 7, 2019  
MAHS Docket No.: 18-009154  
Agency No.: [REDACTED]  
Petitioner: OIG  
Respondent: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

### **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 Title 7 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16. After due notice, a telephone hearing was held on January 2, 2019, from Lansing, Michigan. The Department was represented by Jennifer Allen, Regulation Agent of the Office of Inspector General (OIG). Respondent, Jazmine Ashman-Jones, did not appear. The hearing was held in Respondent's absence pursuant to 7 CFR 273.16(e)(4).

### **ISSUES**

1. Did the Department establish, by clear and convincing evidence, that Respondent committed an Intentional Program Violation (IPV)?
2. Should Respondent be disqualified from the Food Assistance Program (FAP)?
3. Does Respondent owe the Department a debt for the value of FAP benefits trafficked?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Respondent is a FAP recipient. The Department issued Respondent informational publications called "Important Things to Know" and "How to Use Your Michigan Bridge Card" when the Department issued Respondent an EBT card to complete transactions with her FAP benefits. These publications advised Respondent that

she may guilty of an intentional program violation if she sold or traded her FAP benefits or if she used her FAP benefits to obtain anything other than eligible food items.

2. Respondent used her FAP benefits to complete EBT transactions at [REDACTED] from [REDACTED] 2012 through [REDACTED] 2016.
3. [REDACTED] was a stand-alone convenience store located in [REDACTED] [REDACTED]. [REDACTED] did not have any shopping carts or baskets, it had limited inventory of eligible food items, inventory of non-food items, and inventory of alcohol and tobacco. [REDACTED] had a counter with a glass barrier and turn-style carousels to separate the workers from the customers. [REDACTED] was a location of known criminal activity.
4. During the time that Respondent used her FAP benefits at [REDACTED], [REDACTED] was engaged in the trafficking of FAP benefits. [REDACTED] was purchasing FAP benefits for \$0.50 per \$1.00 by either exchanging cash for the benefits or selling ineligible items and charging twice the price to EBT cards. [REDACTED] purchased and physically held some EBT cards to spread purchases over time and to complete purchases of inventory at other retailers.
5. In August 2016, the United States Department of Agriculture (USDA) executed a search warrant at [REDACTED] in conjunction with other agencies. Thereafter, the owner of [REDACTED] was charged with criminal food stamp fraud and convicted.
6. The Department reviewed the EBT transactions completed at [REDACTED] and identified numerous individuals suspected of engaging in FAP trafficking, including Respondent.
7. The Department determined that Respondent completed a total of \$2,384.64 in EBT transactions at [REDACTED] which were indicative of trafficking because they were associated with charges of \$40.00 or more within a 24-hour period.
8. The Department contacted Respondent to obtain an explanation for her EBT transactions at [REDACTED]. Respondent did not respond to the Department's attempt.
9. On August 9, 2018, the Department's OIG filed a hearing request to establish that Respondent committed an IPV and that Respondent owes the Department the amount of the FAP benefits she trafficked.
10. A notice of hearing was mailed to Respondent at her last known address and it was not returned by the United States Postal Service as undeliverable.

11. The OIG requested recoupment of a \$2,384.64 debt for the value of FAP benefits trafficked, and the OIG requested that Respondent be disqualified from FAP for 12 months for a first IPV.

### **CONCLUSIONS OF LAW**

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

The Supplemental Nutrition Assistance Program (SNAP) is a federal food program designed to promote general welfare and to safeguard well-being by increasing food purchasing power. 7 USC 2011 and 7 CFR 271.1. The Department administers its food assistance program pursuant to MCL 400.10; the Social Welfare Act, MCL 400.1-.119b; and Mich Admin Code, R 400.3001 to .3015.

#### **Intentional Program Violation**

An intentional program violation (IPV) “shall consist of having intentionally: (1) Made a false or misleading statement, or misrepresented, concealed or withheld facts; or (2) Committed any act that constitutes a violation of SNAP, SNAP regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP benefits or EBT cards.” 7 CFR 273.16(c).

Trafficking means:

- (1) The buying, selling, stealing, or otherwise effecting 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 signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;
- (2) The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for SNAP benefits;
- (3) Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;
- (4) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or

(5) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.

(6) 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.

An IPV requires that the Department establish by clear and convincing evidence that the client has trafficked FAP benefits. 7 CFR 273.16(e)(6) and BAM 720, p. 1. Clear and convincing evidence is evidence which is so clear, direct, weighty, and convincing that it enables a firm belief as to the truth of the allegations sought to be established. *In re Martin*, 450 Mich 204, 227; 538 NW2d 399 (1995) (citing *In re Jobes*, 108 NJ 394 (1987)).

In this case, I find that the Department has met its burden. Respondent completed EBT transactions at [REDACTED], which was a retailer known to engage in the trafficking of FAP benefits. Respondent completed EBT transactions at [REDACTED] which were excessively high considering the size of the store and its inventory of eligible food items. Respondent's transactions were consistent with an individual completing EBT transactions to obtain items other than eligible food items, and Respondent did not provide a legitimate explanation for her transactions. The Department presented clear and convincing evidence that Respondent's EBT transactions at [REDACTED] were for cash or consideration other than eligible food items, either directly, indirectly, in complicity or collusion with others, or acting alone. Therefore, Respondent's conduct meets the definition of trafficking in 7 CFR 271.2.

#### **Disqualification**

In general, individuals found to have committed an intentional Program violation through an administrative disqualification hearing shall be ineligible to participate in the Program: (i) for a period of 12 months for the first violation, (ii) for a period of 24 months for the second violation, and (iii) permanently for a third violation. 7 CFR 273.16(b). Only the individual who committed the violation shall be disqualified – not the entire household. 7 CFR 273.16(b)(11).

In this case, there is no evidence that Respondent has ever been found to have committed an IPV related to FAP benefits. Thus, this is Respondent's first IPV related to FAP benefits. Therefore, Respondent is subject to a 12-month disqualification.

**Overissuance**

A recipient claim is an amount owed because of benefits that were overpaid or benefits that were trafficked. 7 CFR 273.18(a)(1). A recipient claim based on trafficking is the value of the trafficked benefits. 7 CFR 273.18(c)(2). In this case, Respondent engaged in trafficking when she completed EBT transactions at Liquor Plus Mini Mart. The Department presented sufficient evidence to establish that at least \$2,384.64 of Respondent's EBT transactions were related to trafficking. Thus, Respondent owes the Department \$2,384.64 because she trafficked FAP benefits valued at that amount.

**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. The Department has established, by clear and convincing evidence, that Respondent committed an IPV.
2. Respondent should be disqualified from the Food Assistance Program (FAP).
3. Respondent owes the Department \$2,384.64 for the value of FAP benefits she trafficked.

IT IS ORDERED THAT the Department may initiate recoupment procedures to collect the \$2,384.64 debt Respondent owes the Department for the benefits she trafficked.

IT IS FURTHER ORDERED that Respondent shall be disqualified from the Food Assistance Program for a period of 12 months.

JK/hb



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**Jeffrey Kemm**  
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**

Mark Epps  
4809 Clio Road  
Flint, MI 48504

Genesee County (Clio), DHHS

Policy-Recoupment via electronic mail

M. Shumaker via electronic mail

**Petitioner**

OIG  
PO Box 30062  
Lansing, MI 48909-7562

**Respondent**

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