



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: March 11, 2019  
MAHS Docket No.: 18-011409  
Agency No.: ██████████  
Petitioner: OIG  
Respondent: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

**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 February 13, 2019, from Lansing, Michigan. The Department was represented by James Kropinski, Regulation Agent of the Office of Inspector General (OIG). Respondent, ██████████ ██████████ did not appear. The hearing was held in Respondent's absence pursuant to 7 CFR 273.16(e)(4). Department Exhibit 1, pp. 1-96 was received and admitted.

**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 FAP?

**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 ██████████ ██████████ 2016, Respondent applied for assistance from the Department, including FAP benefits. In Respondent's application, Respondent asserted that he did not have any income from employment. The Department instructed Respondent to report any changes in his employment or income to the Department within 10 days of the date of the change.

2. Respondent did not have any apparent physical or mental impairment that would limit his understanding or ability to fulfill his responsibilities to the Department.
3. On [REDACTED] [REDACTED] 2016, Petitioner began working at [REDACTED].
4. On [REDACTED], 2016, household member [REDACTED] [REDACTED] began working at [REDACTED].
5. The Department investigated Respondent's case and determined that it overissued Respondent FAP benefits because Respondent had unreported income.
6. Respondent signed an agreement to repay the Department \$2,086.00 for FAP benefits that were overissued.
7. On October 31, 2018, the Department's OIG filed a hearing request to establish that Respondent committed an IPV.
8. The OIG requested Respondent be disqualified from FAP for 12 months for a first IPV.
9. A notice of hearing was mailed to Respondent at his last known address and it was not returned by the United States Postal Service as undeliverable.

### **CONCLUSIONS OF LAW**

The Supplemental Nutrition Assistance Program (SNAP) is a federal food assistance 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 (FAP) pursuant to MCL 400.10; the Social Welfare Act, MCL 400.1-.119b; and Mich Admin Code, R 400.3001 to .3015. 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).

### **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). An IPV requires that the Department establish by clear and convincing evidence that the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. 7 CFR 273.16(e)(6). 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 was required to report changes in his circumstances to the Department within 10 days of the change. 7 CFR 273.12(a)(2). The Department clearly and correctly instructed Respondent to report changes to the Department within 10 days, including changes in his employment and income. Respondent failed to report that he began receiving income from employment within 10 days of the date he received his first payment from employment. Respondent also failed to report that his son and household member [REDACTED] [REDACTED] began receiving income from employment within 10 days of the date he received his first paycheck from his employer. Respondent did not provide any explanation for his inaction. Respondent's failure to report these changes to the Department must be considered an intentional misrepresentation to maintain or obtain benefits from the Department since Respondent knew or should have known that he was required to report the changes to the Department and that reporting them would have caused his benefits to be reduced. Respondent did not have any apparent physical or mental impairment that would limit his understanding or ability to fulfill his reporting requirement.

### **Disqualification**

In general, individuals found to have committed an intentional program violation through an administrative disqualification hearing shall be ineligible to participate in FAP: (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).

This is Respondent's first IPV related to FAP benefits. Therefore, Respondent is subject to a 12-month disqualification from FAP.

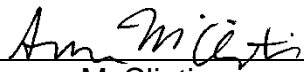
**DECISION AND ORDER**

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 FAP.

IT IS ORDERED that Respondent shall be disqualified from FAP for a period of 12 months.

AM/nr

  
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Aaron McClintic  
Administrative Law Judge  
for Robert Gordon, 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

**Petitioner**

OIG  
PO Box 30062  
Lansing, MI  
48909-7562

Macomb 12 County DHHS- via electronic  
mail

MDHHS- Recoupment- via electronic mail

L. Bengel- via electronic mail

**DHHS**

Tolisha Bates  
21885 Dunham Road  
Clinton Twp., MI  
48036

**Respondent**

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