



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 26, 2019
MOAHR Docket No.: 19-002969
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

**ORDER OF DISMISSAL
FOR LACK OF JURISDICTION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and 7 CFR 273.15 to 273.18, 42 CFR 431.200 to 431.250, 45 CFR 99.1 to 99.33, and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 22, 2019, from Detroit, Michigan via 3-way telephone conference. The Department of Health and Human Services (Department) was represented by [REDACTED] lead worker participating from the Department's Wayne County Conner local office, and [REDACTED] Office of Inspector General (OIG) Recoupment Specialist. Petitioner appeared at the local office and represented herself.

The Department contended that there was no basis for hearing in the present matter. An individual is eligible for a hearing if he or she is aggrieved by any action of the Department that affects participation in FAP. 7 CFR 273.15(a). Department policy and hearing rules provide for the right of an individual to a hearing when the individual's application is denied; program benefits or services are reduced; program benefits or services are suspended or terminated; benefits or services provided are restricted; there is a delay of any action beyond the standards of promptness; and, for FAP and CDC, there is a dispute concerning the current level of benefits or denial of expedited service. Bridges Administrative Manual (BAM) 600 (October 2018), p. 5; Mich Admin Code, R 792.11002(1).

Here, the Department sent Petitioner an Intentional Program Violation Client Notice on March 6, 2019, advising her that her son was disqualified from receiving Food Assistance Program (FAP) benefits from April 1, 2019 to March 31, 2020 and that she was responsible for repaying \$200 for an over-issuance that occurred between May 2016 to July 2017 (Exhibit D). Petitioner requested a hearing to dispute the over-issuance.

At the hearing, the OIG recoupment specialist explained that Petitioner's son was found in a Hearing Decision issued February 27, 2019 to have committed an intentional program violation (IPV) of the FAP program through trafficking of FAP benefits and that, consequently, he was subject to an IPV disqualification from the FAP program and for repayment of \$200 in trafficked FAP benefits. The specialist explained that the notice was sent to Petitioner because she was the grantee of the FAP group that her son was in at the time he committed the trafficking resulting in his IPV disqualification.

Under federal law, a recipient claim is an amount owed to the Department because of FAP benefits that are overpaid or FAP benefits that are trafficked. 7 CFR 273.18(a)(1). Each person who was an adult member of the household when the overpayment or trafficking occurred is responsible for paying a claim. 7 CFR 273.18(a)(4).

While an individual may be responsible for repayment of benefits that were trafficked by a household member, the Department must notify the household of the claim. 7 CFR 273.18(e)(3). Here, the notice gave Petitioner the right to request a hearing, which she did (Exhibit D). At the hearing, the Department OIG recoupment specialist testified that the disqualification applied only to Petitioner's son and that the Department was seeking repayment only against Petitioner's son. The specialist testified that repayment was not sought against Petitioner and in support of its position presented a printout from its system entitled "Adjustment Liable Individual" showing that there was an outstanding \$200 balance for an IPV for a fraud period from June 1, 2016 to September 30, 2017 and the only individual liable for the claim and for which the claim was referred to collection was Petitioner's son, not Petitioner or anyone else under her case name and number (Exhibit B).

Because the Department established that it was not pursuing repayment against Petitioner, there was no negative action taken by the Department entitling Petitioner to a hearing. 7 CFR 273.15(a). Because there is no basis for a hearing, Petitioner's hearing request is **DISMISSED** for lack of jurisdiction.

IT IS SO ORDERED.

AE/tm



Alice C. Elkin
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 Office of Administrative Hearings and Rules.

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc: FAP: [REDACTED]
AP Specialist-Wayne County