



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: March 10, 2021  
MOAHR Docket No.: 20-007432  
Agency No.: [REDACTED]  
Petitioner: OIG  
Respondent: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie**

### **HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION**

The Michigan Department of Health and Human Services (MDHHS or the Department) requested a hearing alleging that Respondent [REDACTED] [REDACTED] committed an Intentional Program Violation (IPV). Pursuant to MDHHS' request and in accordance with MCL 400.9, 7 CFR 273.16, 42 CFR 431.230(b), and 45 CFR 235.110, and Mich Admin Code, R 400.3130 and R 400.3178, this matter is before the undersigned Administrative Law Judge. After due notice, a hearing was held via telephone conference on March 2, 2021.

Nicole Heinz-Hosking, Regulation Agent of the Office of Inspector General (OIG), represented MDHHS.

Respondent did not appear at the hearing, and it was held in Respondent's absence pursuant to 7 CFR 273.16(e)(4); Mich Admin Code, R 400.3130(5); or Mich Admin Code, R 400.3178(5).

### **ISSUES**

1. Did MDHHS establish, by clear and convincing evidence, that Respondent committed an IPV concerning Food Assistance Program (FAP) benefits?
2. Should Respondent be disqualified from receiving FAP benefits for one year?

### **FINDINGS OF FACT**

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

1. From May 1, 2019, to July 31, 2019, Respondent received \$1,063.00 in FAP benefits for a three-person household group.

2. The OIG has requested that Respondent be disqualified from receiving FAP benefits.
3. Respondent was a recipient of FAP benefits issued by the Department. Department Exhibit 1, pg. 42.
4. On the Assistance Application, DHS-1171, submitted by Respondent on [REDACTED] 2019, Respondent reported that she understood the responsibility to report changes in household group composition and changes in income to the Department within 10 days and failed to report her living together partner and father of her children who was in the home and a mandated group member. Department Exhibit 1, pgs. 9-17.
5. On April 10, 2019, the Department sent Respondent a Notice of Case Action, DHS-1605, that the Department was budgeting \$0 in earned income for Respondent for FAP and Respondent was responsible to report changes within 10 days as required by Department policy. Department Exhibit 1, pgs. 20-25.
6. Respondent was aware of the responsibility to report changes in household group composition and income of her living together partner and father of her children who was in the home and a mandated group member when they signed a lease together on March 7, 2019, that resulted in an FEE Investigation. Department Exhibit 1, pgs. 26-41.
7. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
8. Respondent had no prior FAP IPV disqualifications.
9. On September 10, 2020, MDHHS' OIG filed a hearing request alleging that Respondent intentionally failed to report her living together partner and father of her children who was in the home and a mandated group member and as a result received an overissuance of FAP benefits from May 1, 2019, to July 31, 2019, (fraud period) that Respondent was ineligible to receive. The OIG requested that Respondent be disqualified from receiving FAP benefits for a period of one year due to committing an IPV. Department Exhibit 1, pgs. 43-49.
10. A notice of hearing was mailed to Respondent at the last known address and was not returned by the United States Postal Services as undeliverable.

### **CONCLUSIONS OF LAW**

MDHHS policies are contained in the MDHHS Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Adult Services Manual (ASM), and Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq.*, and Mich Admin Code, R 400.3001 to R 400.3031.

### **Intentional Program Violation**

An IPV occurs when a recipient of MDHHS benefits intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts. 7 CFR 273.16(c)(1). Effective October 1, 2014, MDHHS's OIG requests IPV hearings for cases where (1) the total repayment amount sought from Respondent for all programs combined is \$500 or more or (2) the total repayment amount sought from Respondent for all programs combined is less than \$500 but the group has a previous IPV, the matter involves concurrent receipt of assistance, the IPV involves FAP trafficking, or the alleged fraud is committed by a state government employee. BAM 720.

To establish an IPV, MDHHS must present clear and convincing evidence that the household member committed, and intended to commit, the IPV. 7 CFR 273.16(e)(6); BAM 720, p. 1. Clear and convincing evidence is evidence sufficient to result in "a firm belief or conviction as to the truth of the precise facts in issue." *Smith v Anonymous Joint Enterprise*, 487 Mich 102, 114-115; 793 NW2d 533 (2010); see also M Civ JI 8.01. Evidence may be uncontroverted and yet not be clear and convincing; conversely, evidence may be clear and convincing despite the fact that it has been contradicted. *Smith* at 115. The clear and convincing standard is "the most demanding standard applied in civil cases." *In re Martin*, 450 Mich 204, 227; 538 NW2d 399 (1995). For an IPV based on inaccurate reporting, MDHHS policy also requires that the individual have been clearly and correctly instructed regarding the reporting responsibilities and have no apparent physical or mental impairment that limits the ability to understanding or fulfill these reporting responsibilities. BAM 720.

From May 1, 2019, to July 31, 2019, Respondent received \$1,063.00 in FAP benefits for a three-person household group. The OIG has requested that Respondent be disqualified from receiving FAP benefits. Respondent was a recipient of FAP benefits issued by the Department. Department Exhibit 1, pg. 42.

Respondent was aware of the responsibility to report changes in household group composition and income of her living together partner and father of her children who was in the home and a mandated group member when they signed a lease together on March 7, 2019, that resulted in a FEE Investigation. Department Exhibit 1, pgs. 26-41. On the Assistance Application, DHS-1171, submitted by Respondent on [REDACTED], 2019, Respondent reported that she understood the responsibility to report changes in household group composition and changes in income to the Department within 10 days and failed to report her living together partner and father of her children who was in the home and a mandated group member. Department Exhibit 1, pgs. 9-17. On April 10,

2019, the Department sent Respondent a Notice of Case Action, DHS-1605, that the Department was budgeting \$0 in earned income for Respondent for FAP and Respondent was responsible to report changes within 10 days as required by Department policy. Department Exhibit 1, pgs. 20-25.

Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement. Respondent had no prior FAP IPV disqualifications. On September 10, 2020, MDHHS' OIG filed a hearing request alleging that Respondent intentionally failed to report her living together partner and father of her children who was in the home and a mandated group member and as a result received an overissuance of FAP benefits from May 1, 2019, to July 31, 2019, (fraud period) that Respondent was ineligible to receive. The OIG requested that Respondent be disqualified from receiving FAP benefits for a period of one year due to committing an IPV. Department Exhibit 1, pgs. 43-49. A notice of hearing was mailed to Respondent at the last known address and was not returned by the United States Postal Services as undeliverable.

In this case, MDHHS alleges that Respondent committed an IPV based on her failure to report to the Department her living together partner and father of her children who was in the home and a mandated group member within 10 days as required by Department policy. Therefore, MDHHS has presented clear and convincing evidence that Respondent committed an IPV.

### **IPV Disqualification**

An individual who is found pursuant to an IPV disqualification hearing to have committed a FAP IPV is disqualified from receiving benefits for the same program for 12 months for the first IPV, 24 months for the second IPV, and lifetime for the third IPV. 7 CFR 273.16(b)(1); BAM 720. As discussed above, MDHHS has established by clear and convincing evidence that Respondent committed an IPV. There was evidence of no prior IPV's by Respondent. Because this was Respondent's first IPV for FAP, Respondent is subject to a one-year disqualification from receipt of FAP benefits.

### **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. MDHHS has established by clear and convincing evidence that Respondent committed an IPV.
2. Respondent is subject to a one-year disqualification from the Food Assistance Program.

**IT IS ORDERED** that Respondent be personally disqualified from the Food Assistance Program for a period of one year.

CF/hb



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**Carmen G. Fahie**  
Administrative Law Judge  
for Elizabeth Hertel, 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 (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Ingham County via electronic mail

Policy-Recoupment via electronic mail

L. Bengel via electronic mail

**Petitioner**

OIG  
PO Box 30062  
Lansing, MI 48909-7562

**Respondent**

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