



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: December 18, 2020  
MOAHR Docket No.: 20-006870  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 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 December 10, 2020. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Tamara Jackson, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as exhibit A, pp. 1-23.

### **ISSUE**

Did the Department properly deny Petitioner's October 12, 2020 application for the Food Assistance Program (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. A June 9, 2015, Hearing Decision found that Petitioner committed a FAP Intentional Program Violation (IPV) by making a fraudulent statement or representation regarding her identity or residence in order to receive multiple FAP benefits simultaneously, and that the Department may disqualify Petitioner from receiving FAP benefits in accordance with the policy that allows for a 10 year disqualification period for this. (Exhibit A, pp. 13-18)
2. Petitioner's FAP IPV sanction began on July 1, 2015 and ends on June 30, 2025. (Exhibit A, p. 12)

3. On [REDACTED], 2020, Petitioner applied for FAP<sup>1</sup>. (Exhibit A, pp. 4-10)
4. On October 13, 2020, the Department completed an interview with Petitioner. (Exhibit A, p. 11)
5. On October 13, 2020, a Notice of Case Action was issued stating FAP was denied because Petitioner had an IPV disqualification. (Exhibit A, pp. 19-23)
6. On October 30, 2020, Petitioner requested a hearing contesting the denial of her FAP application. (Exhibit A, p. 3)

### **CONCLUSIONS OF LAW**

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

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. The Department (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.

For FAP, a person is disqualified for a period of 10 years if found guilty through the administrative hearing process, convicted in court or by signing a repayment and disqualification agreement (such as a DHS-826, Request for Waiver of Disqualification Hearing, or DHS830, Disqualification Consent Agreement,) of having made a fraudulent statement or representation regarding his identity or residence in order to receive multiple FAP benefits simultaneously. BEM 203, October 1, 2020, p. 1.

In this case, a June 9, 2015, Hearing Decision found that Petitioner committed a FAP IPV by making a fraudulent statement or representation regarding her identity or residence in order to receive multiple FAP benefits simultaneously, and that the Department may disqualify Petitioner from receiving FAP benefits in accordance with the policy that allows for a 10 year disqualification period for this. (Exhibit A, pp. 13-18) Petitioner's IPV sanction began on July 1, 2015 and ends on June 30, 2025. (Exhibit A, p. 12)

On [REDACTED] 2020, Petitioner applied for FAP. (Exhibit A, pp. 4-10) This was within Petitioner's IPV disqualification period. Accordingly, on October 13, 2020, a Notice of

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<sup>1</sup> Petitioner's application is dated [REDACTED], 2020, which was a [REDACTED]. Accordingly, it was registered as received by the Department on the next business day, [REDACTED] 2020.

Case Action was issued stating FAP was denied because Petitioner had an IPV disqualification. (Exhibit A, pp. 19-23)

Petitioner testified about the circumstances that resulted in receiving food benefits in both Michigan and North Carolina. Petitioner described attempts to let her Michigan case worker know what was going on and asserted that she did not intentionally try to obtain food benefits from both states. (Petitioner Testimony) As stated during the hearing proceeding, this Administrative Law Judge has no jurisdiction to review the IPV determination from 2015.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Petitioner's [REDACTED] 2020, application for FAP because Petitioner has an IPV disqualification that does not end until June 30, 2025.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

CL/ml



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Colleen Lack  
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 (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**

Brenda Buhl  
Lapeer County DHHS – via electronic mail

MDHHS Recoupment – via electronic mail

OIG – via electronic mail

L. Bengel – via electronic mail

**Petitioner**

██████████ – via first class mail  
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██████████ MI ██████████