



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: August 4, 2021  
MOAHR Docket No.: 20-008597-RECON  
Agency No.: [REDACTED]  
Petitioner: OIG  
Respondent: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

**ORDER GRANTING REQUEST FOR RECONSIDERATION**  
**AND**  
**AMENDED HEARING DECISION ON RECONSIDERATION**

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to the request for rehearing and/or reconsideration by the Department of Health and Human Services (Department) of the Hearing Decision For Intentional Program Violation (Hearing Decision) issued by the undersigned at the conclusion of the hearing conducted on [REDACTED] 2021, and mailed on [REDACTED] 2021, in the above-captioned matter.

In the Hearing Decision, it was found by clear and convincing evidence, that Respondent, [REDACTED] committed an Intentional Program Violation (IPV) of the Food Assistance Program (FAP) because she misrepresented her circumstances by failing to disclose that she had two or more drug-related felony convictions each occurring after [REDACTED] 1996. As a result, it was ordered that Respondent be personally disqualified from the FAP for one year. During the hearing, the Regulation Agent for the Department's Office of Inspector General (OIG), asserted that Respondent was overissued FAP benefits in the amount of [REDACTED] for the [REDACTED] 2018, to [REDACTED] 2020, fraud period. It was ordered that because Respondent was ineligible for FAP benefits, as based on policy in place at the time of the fraud period she was subject to a disqualification from the FAP, the Department was entitled to recoup [REDACTED] in FAP benefits overissued to Respondent due to her IPV.

On or around [REDACTED] 2021, the Department submitted a request for reconsideration and/or rehearing. The rehearing and reconsideration process is governed by the Michigan Administrative Code, Rule 792.11015, *et seq.*, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program that is the basis for the client's benefits application or services at issue and may be granted so long as the

reasons for which the request is made comply with the policy and statutory requirements. A rehearing is a full hearing which may be granted if the original hearing record is inadequate for purposes of judicial review or there is newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision. BAM 600 (March 2021), pp. 44-45. A reconsideration is a paper review of the facts, law or legal arguments and any newly discovered evidence that existed at the time of the hearing and may be granted when the original hearing record is adequate for purposes of judicial review and a rehearing is not necessary, but one of the parties is able to demonstrate that the Administrative Law Judge misapplied manual policy or law in the hearing decision, which led to the wrong decision; issued a Hearing Decision with typographical errors, mathematical errors, or other obvious errors that affect the substantial rights of the petitioner; or failed to address other relevant issues in the hearing decision. BAM 600, pp. 44-45.

In its request for reconsideration/rehearing, the Department alleged that a typographical, mathematical, or other obvious error in the Hearing Decision existed which affects the substantial rights of Respondent, [REDACTED]. Specifically, the Department asserted that during the hearing held on [REDACTED] 2021, the Department presented evidence and testimony of an overissuance (OI) of FAP benefits during the [REDACTED] 2018, to [REDACTED] 2020, fraud period. The Department asserted that after review, it discovered that Respondent was actually overissued FAP benefits in the amount of [REDACTED] and not \$ [REDACTED] during the fraud period.

Because the Department alleges a typographical, mathematical, or other obvious error in the Hearing Decision affects the substantial rights of Respondent and has identified the error, a basis for reconsideration is established. Therefore, the Department's request for reconsideration is **GRANTED**. An Amended Hearing Decision on Reconsideration will be issued with the only change being the reduction of the FAP OI amount from [REDACTED] to [REDACTED].

The Amended Hearing Decision on Reconsideration follows a full review of the case file, all exhibits, the hearing record and applicable statutory and policy provisions.

### **AMENDED HEARING DECISION ON RECONSIDERATION**

#### **ISSUE**

Did the undersigned Administrative Law Judge (ALJ) err in concluding that the Department was entitled to recoupment of a [REDACTED] OI in FAP benefits from Respondent for the fraud period of [REDACTED] 2018, to [REDACTED] 2020?

#### **FINDINGS OF FACT**

The undersigned, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED] 2021, a hearing was held in the above captioned matter.
2. On [REDACTED] 2021, the undersigned issued a Hearing Decision in the matter, finding that Respondent was overissued FAP benefits in the amount of [REDACTED] during the [REDACTED] 2018, to [REDACTED] 2020, fraud period and ordering that the Department was entitled to recoup [REDACTED] in FAP benefits overissued to Respondent due to her IPV.
3. The Findings of Fact numbers 2 through 4 and 6 through 7 in the Hearing Decision are incorporated by reference.
4. Respondent was a recipient of FAP benefits issued by the Department. From [REDACTED] 2018 to [REDACTED] 2020, (fraud period), Respondent was issued [REDACTED] in FAP benefits by the State of Michigan and the Department now alleges that Respondent was entitled to [REDACTED] in such benefits during this time period, resulting in an OI of [REDACTED].
5. The Department alleged that Respondent intentionally withheld or misrepresented information concerning her drug-related felony convictions, and as a result received FAP benefits that she was ineligible to receive, causing an OI of [REDACTED].
6. On [REDACTED] 2021, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the Department's timely request for reconsideration, which is granted herein.

### **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.

The Conclusions of Law as related to the Intentional Program Violation and IPV Disqualification discussions in the Hearing Decision are incorporated by reference in this Amended Hearing Decision on Reconsideration.

#### **Overissuance**

When a client group receives more benefits than entitled to receive, MDHHS must attempt to recoup the OI as a recipient claim. 7 CFR 273.18(a)(2); BAM 700, p.1. The

amount of a FAP OI is the benefit amount the client actually received minus the amount the client was eligible to receive. 7 CFR 273.18(c)(1); BAM 720, p. 8; BAM 715, p.6; BAM 705, p.6.

In its request for reconsideration, the Department asserted that for the period between [REDACTED] 2018, to [REDACTED] 2020 (fraud period), Respondent was overissued [REDACTED] in FAP benefits and not the [REDACTED] determined in the Hearing Decision.

At the hearing, the Department asserted that due to her drug-related felony convictions, Respondent was ineligible for any FAP benefits issued to her during the fraud period. A review of the FAP Benefit Summary Inquiry presented by the Department shows that Respondent was issued FAP benefits in the amount of [REDACTED] during the fraud period. (Exhibit A, pp. 22-24). Because Respondent was ineligible for FAP benefits, as based on policy in place at the time of the fraud period she was subject to a disqualification from the FAP, the Department is entitled to recoup [REDACTED] from Respondent, which is the difference between the amount of FAP benefits issued to her and the amount she was eligible to receive during the fraud period.

### **DECISION AND ORDER**

Based on the above Findings of Fact and Conclusions of Law, the undersigned Administrative Law Judge concludes that:


1. The Department **has** established by clear and convincing evidence that Respondent committed an IPV.
2. Respondent **did** receive an OI of FAP program benefits in the amount of [REDACTED] that the Department is entitled to recoup.

It is FURTHER ORDERED that Respondent be personally disqualified from FAP for a period of **12 months**.

Accordingly, the [REDACTED] 2021, Hearing Decision is **PARTIALLY REVERSED**.

The Department is ORDERED to delete the previously determined [REDACTED] FAP OI and initiate recoupment and/or collection procedures for a FAP OI in the amount of [REDACTED], less any amounts already recouped and/or collected, for the fraud period.

ZB/tlf

  
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**Zainab A. Baydoun**  
Administrative Law Judge

**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

**Electronic Mail Recipients:**

MDHHS-Gratiot-Hearings  
OIG Hearing Decisions  
Recoupment  
MOAHR

**Respondent – via First-Class Mail:**

[REDACTED]  
MI [REDACTED]