



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
ACTING DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: January 10, 2024  
MOAHR Docket No.: 23-005042  
Agency No.: [REDACTED]  
Petitioner: OIG  
Respondent: [REDACTED] [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Kevin Scully**

**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, and with Mich Admin Code, R 400.3130, and R 400.3178. After due notice, a telephone hearing was held on December 12, 2023, from Lansing, Michigan. The Department was represented by Allyson Carneal, Regulation Agent of the Office of Inspector General (OIG). Respondent did not appear at the hearing, and it was held in Respondent’s absence pursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5).

**ISSUES**

1. Did Respondent receive an overissuance (OI) of State Emergency Relief (SER) assistance that the Department is entitled to recoup?
2. Did the Department establish by clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV)?

**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 an application for assistance dated June [REDACTED] 2022, Respondent acknowledged her duties and responsibilities including the duty to report her household income. Respondent did not have an apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement. Exhibit A, pp 7-12.
2. Respondent acknowledged under penalties of perjury that her June [REDACTED] 2023, application form was examined by or read to her, and, to the best of her knowledge, contained facts that were true and complete. Exhibit A, p 12.

3. Respondent reported on her June [REDACTED] 2023, application for assistance that as a household of one that she was employed and receiving earned income in the gross weekly amount of \$[REDACTED] Exhibit A, p 10.
4. On an application for assistance dated July [REDACTED] 2022, Respondent acknowledged her duties and responsibilities including the duty to report her household income. Respondent did not have an apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement. Exhibit A, pp 19-24.
5. Respondent reported on her July [REDACTED] 2022, application for assistance that she was employed and receiving earned income in the gross monthly amount of \$[REDACTED] Exhibit A, p 22.
6. Respondent submitted photographs of her paycheck stubs to the Department showing that she received earned income in the gross weekly amounts of \$[REDACTED] on April 15, 2022, and \$[REDACTED] on April 22, 2022. Exhibit A, pp 15-16.
7. Respondent failed to report other employment or that she received additional earned income from employment from May 13, 2022, through September 16, 2022. Respondent received earned income in the gross monthly amount of \$[REDACTED] in July in addition to the income she reported. Exhibit A, pp 17-18.
8. Respondent received State Emergency Relief (SER) assistance with her utility expenses totaling \$[REDACTED] Exhibit A, p 26.
9. The Department's OIG filed a hearing request on August 23, 2023, to establish that Respondent committed an Intentional Program Violation (IPV). Exhibit A, p 2.
10. On August 23, 2023, the Department sent Respondent an Intentional Program Violation Repayment Agreement (DHS-4350) with notice of a \$[REDACTED] overpayment. Exhibit A, pp 28-29.
11. A notice of hearing was mailed to Respondent at the last known address and was not returned by the United States Postal Service as undeliverable.

### **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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1 *et seq.* The Department administers the SER program pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq.*, and Mich Admin Code, R 400.7000 through R 400.7049.

The Department's OIG requests IPV hearings for the following cases:

- FAP trafficking OIs that are not forwarded to the prosecutor.
- Prosecution of welfare fraud or FAP trafficking is declined by the prosecutor for a reason other than lack of evidence, and
  - the total OI amount for the FIP, SDA, CDC, MA and FAP programs is \$500 or more, or
  - the total OI amount is less than \$500, and
    - the group has a previous IPV, or
    - the alleged IPV involves FAP trafficking, or
    - the alleged fraud involves concurrent receipt of assistance (see BEM 222), or
    - the alleged fraud is committed by a state/government employee.

Department of Health and Human Services Bridges Administrative Manual BAM 720 (October 1, 2017), pp 12-13.

### **Overissuance**

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. Department of Human Services Bridges Administrative Manual (BAM) 700 (October 1, 2018), p 1.

On an application for assistance dated June █ 2022, Respondent acknowledged the duty to truthfully and accurately report all earned income from employment. Respondent did not have an apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement. Respondent acknowledged under penalties of perjury that her June █ 2023, application form was examined by or read to her, and, to the best of her knowledge, contained facts that were true and complete. Respondent reported on her June █ 2023, application for assistance that she was employed and receiving earned income in the gross weekly amount of \$█. Respondent filed another application for assistance on July █ 2022, reporting that she was receiving earned income in the gross weekly amount of \$█. Respondent provided photographs of her paycheck stubs showing that she received weekly paychecks of \$█ on April 15, 2022, and \$█ on April 22, 2022.

Respondent failed to report that she had additional employment and that in July she received additional earned income in the gross monthly amount of \$█. If Respondent had truthfully and completely reported all of her income, the Department would not have

granted her SER assistance because her total gross monthly income exceeded to the \$1,610 limit for a household of one to received SER assistance with utility expenses.

Respondent received SER assistance with her utility expenses totaling \$ [REDACTED] but would not have been eligible for those benefits if she had truthfully reported her actual earned income from employment. Therefore, Respondent received a \$ [REDACTED] overissuance of SER assistance.

### **Intentional Program Violation**

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. BAM 720, p. 1; see also 7 CFR 273.16(e)(6).

The Department has the burden of establishing by clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV). The clear and convincing evidence standard, which is the most demanding standard applied in civil cases, is established where there is evidence so clear, direct, and weighty and convincing that a conclusion can be drawn without hesitancy of the truth of the precise facts in issue. *Smith v Anonymous Joint Enterprise*, 487 Mich 102; 793 NW2d 533 (2010), reh den 488 Mich 860; 793 NW2d 559 (2010).

Clear and convincing proof is that which produces in the mind of the trier of fact a firm belief or conviction as to the truth of the precise facts in issue. Evidence may be uncontroverted and yet not be clear and convincing. Conversely, evidence may be clear and convincing even if contradicted. *Id.*

Respondent acknowledged the duties and responsibilities of receiving SER assistance on applications for assistance dated June [REDACTED] 2022, and July [REDACTED] 2022. Respondent did not have an apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement. It is the Department's practice to provide pamphlet material to eligible SER recipients advising them of their duty to truthfully and completely report all income. The hearing record supports a finding that Respondent was provided with notice that Respondent was instructed that it was her duty to truthfully and completely report all earned income.

Respondent reported weekly gross income of \$ [REDACTED] on June 10, 2023, and \$ [REDACTED] on July 18, 2022, and also provided the Department with verification of that income. If that had been Respondent's sole source of income for her household of one, then she would have been eligible for the SER assistance she received. Respondent failed to report that she was receiving additional earned income from employment that would have caused her to be ineligible for SER assistance.

This Administrative Law Judge finds that the Department has presented clear and convincing evidence that Respondent intentionally concealed her earned income from employment for the purposes of becoming eligible for SER assistance that she would not have been eligible for otherwise.

The record evidence indicates that this is Respondent's first established IPV violation.

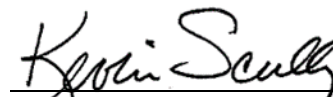
The Department has established an Intentional Program Violation (IPV).

**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 Intentional Program Violation (IPV).
2. Respondent did receive an overissuance of State Emergency Relief (SER) benefits in the amount of \$ [REDACTED]
3. The Department is ORDERED to initiate recoupment procedures for the amount of \$ [REDACTED] in accordance with Department policy.

KS/dm



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**Kevin Scully**

Administrative Law Judge

Michigan Office of Administrative Hearings  
and Rules (MOAHR)

**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

**Via-Electronic Mail :**

**Petitioner**  
OIG  
**MDHHS-OIG-  
HEARINGS@michigan.gov**

**DHHS**  
Kristina Etheridge  
Calhoun County DHHS  
**MDHHS-Calhoun-  
Hearings@michigan.gov**

**Policy-Recoupment**

**StebbinsN**

**MOAHR**

**Via-First Class Mail :**

**Respondent**  
[REDACTED]  
[REDACTED]  
[REDACTED]