



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED]  
[REDACTED]  
MI [REDACTED]

Date Mailed: June 21, 2024  
MOAHR Docket No.: 23-007037  
Agency No.: [REDACTED]  
Petitioner: OIG  
Respondent: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

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

The Michigan Department of Health and Human Services (MDHHS or Department) requested a hearing alleging that Respondent [REDACTED] committed an intentional program violation (IPV) by trafficking Food Assistance Program (FAP) benefits. Pursuant to MDHHS' request for hearing and MCL 400.9, 7 CFR 273.16 and 7 CFR 273.18, this matter is before the undersigned Administrative Law Judge. After due notice, a hearing was held via telephone conference on May 23, 2024. Joseph Adcock, 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). MDHHS' Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-96.

**ISSUES**

1. Did MDHHS establish, by clear and convincing evidence, that Respondent committed an intentional program violation (IPV) by trafficking Food Assistance Program (FAP) benefits?
2. Should Respondent be disqualified from receiving FAP benefits for a period of 24 months?

**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 [REDACTED] 2023, Respondent applied for FAP benefits (Exhibit A, p. 7).

2. On [REDACTED] 2023, [REDACTED] Electronic Benefits Transfer (EBT) card was used at Meijer (Exhibit A, p. 19). The purchaser used an MPerks account belonging to Respondent (Exhibit A, p. 22). The purchase amounted to \$899.44 in FAP benefits (Exhibit A, p. 22).
3. On July 11, 2023, [REDACTED] reported to the Michigan Department of State Police that her EBT card was used fraudulently (Exhibit A, p. 16).
4. On August 1, 2023, Respondent signed Request for Waiver of Disqualification Hearing admitting to trafficking by misusing [REDACTED] EBT card. Respondent agreed to a one-year penalty and agreed to repay \$899.44 to MDHHS (Exhibit A, pp. 27-30).
5. Respondent did not have an apparent physical or mental impairment that would limit an understanding of FAP rules and regulations.
6. Respondent had a prior FAP IPV disqualification stemming from trafficking activity in 2011 (Exhibit A p. 36). On August 1, 2012, Respondent signed a Disqualification Consent Agreement and Intentional Program Violation Repayment Agreement (Exhibit A, p. 36).
7. On October 16, 2023, MDHHS' OIG filed a hearing request alleging that Respondent intentionally trafficked FAP benefits from July 11, 2023 to July 11, 2023 (fraud period). OIG requested that Respondent be disqualified from receiving FAP benefit for a period of 24 months due to committing an IPV by trafficking. The associated debt was previously established by MDHHS and was not at issue in this case.
8. A notice of hearing was mailed to Respondent at the last known address and was returned by the United States Postal Service as undeliverable.

### **CONCLUSIONS OF LAW**

MDHHS policies are contained in the MDHHS Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), 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 400.3015.

#### **Trafficking and IPV Disqualification**

MDHHS alleges that Respondent committed an IPV by trafficking FAP benefits and requests that Respondent be disqualified from FAP eligibility. IPV is defined, in part, as

having intentionally “committed any act that constitutes a violation of [FAP], [FAP federal] regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of [FAP] benefits or EBT [electronic benefit transfer] cards.” 7 CFR 273.16(c)(2) and (e)(6). Trafficking includes buying, selling, stealing, or otherwise effecting, or attempting to buy, sell, steal or otherwise effect, “an exchange of [FAP] benefits issued and accessed via [EBT] cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone” 7 CFR 271.2.

To establish an IPV by trafficking, 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 (October 2017), 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. 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).

In this case, MDHHS alleged that Respondent committed an IPV by trafficking FAP benefits when she wrongfully used [REDACTED] EBT card. Respondent signed the Request for Waiver of Disqualification Hearing admitting to trafficking by misusing [REDACTED] EBT card and agreed to repay \$899.44 to MDHHS (Exhibit A, pp. 27-30). Based on Respondent’s admission, MDHHS has established by clear and convincing evidence that Respondent trafficked FAP benefits. Thus, Respondent committed an IPV.

MDHHS requested this hearing because it indicated on the Request for Waiver of Disqualification Hearing that Respondent was subject to a one-year disqualification period. MDHHS subsequently found evidence that Respondent was subject to a previous IPV disqualification and alleged that Respondent should be disqualified from FAP for a period of 24 months, rather than a period of 12 months.

An individual who is found to have committed an IPV by a hearing decision is disqualified from receiving program benefits. 7 CFR 273.16(b). An individual is disqualified from receiving program benefits for one year for the first IPV, two years for the second IPV and a lifetime for the third IPV. BAM 720, p. 16.

MDHHS presented evidence that Respondent admitted to committing an IPV by trafficking benefits in 2011 and signed a Disqualification Consent Agreement on August 1, 2012 (Exhibit A, pp. 35-27). Because MDHHS presented evidence of a prior FAP IPV violation, it has established that its request for a 24-month disqualification period is warranted. BAM 720, p. 16.

**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 24-month FAP disqualification.

**IT IS ORDERED** Respondent be personally disqualified from FAP for a period of 24 months.



---

**Linda Jordan**  
Administrative Law Judge

LJ/pt

**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  
PO Box 30062  
Lansing, MI 48909-7562  
**MDHHS-OIG-HEARINGS@michigan.gov**

**DHHS**

Tara Roland 82-17  
Wayne-Greenfield/Joy-DHHS  
8655 Greenfield  
Detroit, MI 48228  
**MDHHS-Wayne-17-hearings@michigan.gov**

**Interested Parties**

Wayne County DHHS  
Policy Recoupment  
N. Stebbins  
MOAHR

**Via-First Class Mail:**

**Respondent**

██████████  
████████████████████  
██████████ MI ██████████