



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]
MI [REDACTED]

Date Mailed: May 28, 2024
MOAHR Docket No.: 23-007041
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

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 Title 7 of the Code of Federal Regulations (CFR), particularly 7 CFR 273.16. After due notice, a telephone hearing was held on May 21, 2024. The Department was represented by Office of Inspector General (OIG) Regulation Agent Karrie Felenchak. Respondent, [REDACTED] did not appear. The hearing was held in Respondent's absence pursuant to 7 CFR 273.16(e)(4).

A 139-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

1. Did Respondent receive an overissuance of \$408.00 in Food Assistance Program (FAP) benefits from January 1, 2021, through February 28, 2021, that the Department is entitled to recoup and/or collect as a recipient claim?
2. Did the Department establish by clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV)?
3. Should Respondent be disqualified from receiving FAP benefits for 12 months?

FINDINGS OF FACT

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

1. On [REDACTED] 2020, Respondent applied for FAP benefits from the Department and reported he was employed at [REDACTED]. Exhibit A, pp. 12-16.

2. During a July 21, 2020, interview, Respondent reported he did not have any income. *Id.* at p. 64.
3. On July 21, 2020, the Department mailed a notice of case action to Respondent to notify him that he was approved for FAP benefits based on reported earned income of \$0.00 per month. *Id.* at pp. 66-70. The Department instructed Respondent to report all changes in household income to the Department within 10 days of the date of the change. *Id.*
4. From August 9, 2020, through July 16, 2021, Respondent was employed at [REDACTED] and received his first check from this employment on [REDACTED], 2020. *Id.* at pp. 74-76.
5. From [REDACTED] 2021, through [REDACTED] 2021, Respondent received the following gross wages from his employment at [REDACTED]
 - a. [REDACTED] on [REDACTED], 2021;
 - b. [REDACTED] on [REDACTED], 2021;
 - c. [REDACTED] on [REDACTED], 2021;
 - d. [REDACTED] on [REDACTED], 2021;
 - e. [REDACTED] on [REDACTED], 2021;
 - f. [REDACTED] on [REDACTED], 2021; and
 - g. [REDACTED] on [REDACTED], 2021.

Id. at pp. 93-96.

6. Respondent did not report his employment to the Department, and the Department was otherwise unaware of Respondent's employment at [REDACTED] so the Department continued to issue FAP benefits to Respondent without considering the income he earned from [REDACTED]. *Id.* at pp. 88-90.
7. On [REDACTED] 2021, Respondent submitted a Redetermination wherein he reported he had no employment, and his household did not receive any income. *Id.* at pp. 79-81.
8. On [REDACTED] 2021, Respondent applied for FAP benefits and reported he had no employment, and his household did not receive any income. *Id.* at pp. 82-87.
9. From January 1, 2021, through February 28, 2021, the Department determined that it overissued FAP benefits to Respondent because he had unreported

household income. *Id.* at p. 89. The Department determined that Respondent's household income exceeded the limit for Respondent to be eligible for FAP benefits from January 1, 2021, through February 28, 2021. *Id.*

10. On October 16, 2023, the Department's OIG filed a hearing request to establish an overissuance of \$408.00 from January 1, 2021, through February 28, 2021. *Id.* at pp. 1.
11. From September 2019 through February 2020 and July 2020 through April 2021 the Department determined that Respondent was overissued a total of \$8,420.00 in FAP benefits because Respondent received \$8,420.00 in FAP benefits when he was not eligible for any.
12. On [REDACTED] 2021, Respondent applied for FAP benefits and reported he was laid off and had no income. *Id.* at pp. 97-101.
13. From [REDACTED] 2021, through [REDACTED], 2022, Respondent was employed at [REDACTED]. Respondent received his first check from this employment on [REDACTED] 2021. *Id.* at pp. 113-115.
14. During a [REDACTED] 2021, interview, Respondent reported he was employed at [REDACTED] but was laid off and last received pay on [REDACTED] 2021. *Id.* at p. 103. Respondent reported no additional income. *Id.*
15. From January 1, 2022, through March 31, 2022, Respondent was receiving FAP benefits from the Department while he was employed at [REDACTED], and Respondent did not report to the Department that he had a change in household income from his employment. *Id.* at pp. 119-126.
16. The Department was unaware of Respondent's change in household income, so the Department continued to issue FAP benefits to Respondent while he was working and earning income.
17. The Department subsequently discovered Respondent was earning income from employment, so the Department initiated an investigation of Respondent's case.
18. During the Department's investigation, the Department determined that it overissued FAP benefits to Respondent because he had unreported household income.
19. Respondent did not have any impairment that would have limited his understanding of his reporting responsibilities or his ability to carry out his reporting responsibilities. *Id.* at p. 127.
20. The Department determined that Respondent was overissued \$1,035.00 in FAP benefits from January 1, 2022, through March 31, 2022. *Id.* at p. 5.

21. From January 1, 2022, through March 31, 2022, the Department established a claim for the amount of the overissuance.
22. On October 16, 2023, the Department's OIG filed a hearing request to establish that Respondent committed an IPV. *Id.* at pp. 1-139.
23. The Department's OIG requested that Respondent be disqualified from FAP for 12 months for a first IPV. *Id.* at p. 5.
24. A notice of hearing was mailed to Respondent at his last known address, and it was not returned by the United States Postal Service as undeliverable.

CONCLUSIONS OF LAW

The Supplemental Nutrition Assistance Program (SNAP) is a federal food assistance program designed to promote general welfare and to safeguard well-being by increasing food purchasing power. 7 USC 2011 and 7 CFR 271.1. The Department administers its Food Assistance Program (FAP) pursuant to MCL 400.10; the Social Welfare Act, MCL 400.1-.119b; and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Overissuance

A recipient claim is an amount owed because of benefits that were overpaid or benefits that were trafficked. 7 CFR 273.18(a)(1). When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 1, 2018), p. 1.

In this case, Respondent received more benefits than he was entitled to receive because he had unreported income. FAP benefits are income-based, so the amount of income a household has determines the household's FAP benefit. From January 1, 2021, through February 28, 2021, the Department overissued \$408.00 in FAP benefits without considering the income that Respondent earned from his employment at Employbridge. The Department presented sufficient evidence to establish that Respondent was overissued \$408.00 in FAP benefits from January 1, 2021, through February 28, 2021.

Intentional Program Violation

An intentional program violation (IPV) "shall consist of having intentionally: (1) made a false or misleading statement, or misrepresented, concealed or withheld facts; or (2) committed any act that constitutes a violation of SNAP, SNAP regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP benefits or EBT cards." 7 CFR 273.16(c). 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. 7 CFR 273.16(e)(6). Clear and convincing evidence is evidence, which is so clear, direct, weighty, and convincing that it enables a firm belief as to the truth of the allegations sought to be established. *In re Martin*, 450 Mich 204, 227; 538 NW2d 399 (1995) (citing *In re Jobes*, 108 NJ 394 (1987)).

The Department presented clear and convincing evidence to establish that Respondent had changes in income that he purposely failed to report to the Department so that he could maintain his FAP benefits. Respondent was required to report changes in his circumstances to the Department within 10 days of the change. 7 CFR 273.12(a)(2). Although the Department clearly and correctly instructed Respondent to report changes to the Department within 10 days, Respondent failed to report that he had changes in his income within 10 days of the date of the change and continued to receive FAP benefits as if he had no change in income.

Disqualification

In general, individuals found to have committed an intentional program violation through an administrative disqualification hearing shall be ineligible to participate in FAP: (i) for a period of 12 months for the first violation, (ii) for a period of 24 months for the second violation, and (iii) permanently for a third violation. 7 CFR 273.16(b). Only the individual who committed the violation shall be disqualified – not the entire household. 7 CFR 273.16(b)(11).

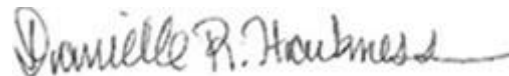
In this case, there is no evidence that Respondent has ever been found to have committed an IPV related to FAP benefits. Thus, this is Respondent's first IPV related to FAP benefits, and Respondent is subject to a 12-month disqualification from FAP.

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. Respondent received a \$408.00 overissuance of FAP benefits from January 1, 2021, through February 28, 2021, that the Department is entitled to recoup and/or collect as a recipient claim.
2. The Department established by clear and convincing evidence that Respondent committed an Intentional Program Violation.
3. Respondent is personally disqualified from the Food Assistance Program for 12 months.

IT IS SO ORDERED.



Danielle R. Harkness
Administrative Law Judge

DH/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
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Interested Parties
Wayne County DHHS
Policy Recoupment
N. Stebbins
MOAHR

Via-First Class Mail:

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