

FINDINGS OF FACT

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

1. From May 1, 2021, to April 30, 2022, Respondent received \$3,895.00 in FAP benefits subject to recoupment. Exhibit A, pp. 167-172.
2. From May 1, 2021, to November 30, 2022, the Department paid \$3,304.19 towards Respondent's MA coverage. *Id.* at pp. 173-176.
3. On [REDACTED] 2020, Respondent submitted an Assistance Application for MA and FAP benefits in Michigan and reported she was homeless and listed a mailing address of [REDACTED] Michigan. Respondent also reported that she had no income. *Id.* at pp. 14-19.
4. On May 12, 2020, a Health Care Coverage Determination Notice was issued to Respondent approving MA benefits for Respondent. This Notice also reminded Respondent of the responsibility to report changes that may affect eligibility within 10 days. *Id.* at pp. 67-69.
5. On May 14, 2020, a Notice of Case Action was issued to Respondent approving FAP benefits for the household size of 1. *Id.* at pp. 70-77. The Notice contained a budget summary showing no earned income was included in the FAP budget. *Id.* at p. 71. The Notice also reminded Respondent of the responsibility to report changes that may affect eligibility within 10 days. *Id.* at p. 74. A blank change report form was included. *Id.* at p. 75-77.
6. On [REDACTED] 2021, Respondent submitted a Redetermination for FAP. Respondent reported she resided at [REDACTED] Michigan. *Id.* at pp. 78-82.
7. On April 1, 2021, an interview was completed with Respondent who indicated she does not have a regular nighttime residence and sleeps house to house, but she intends to remain in Michigan. *Id.* at pp. 83-84. Respondent also reported having no income. *Id.* at p. 84. The rights and responsibilities were reviewed with Respondent. *Id.* at p. 85.
8. From March 19, 2021, to April 30, 2022, Respondent's Michigan issued FAP benefits were utilized exclusively in Arkansas. *Id.* at pp. 86-91.
9. On September 9, 2021, a civil was filed in [REDACTED] in Arkansas wherein Respondent entered into a verbal agreement with Plaintiff to reside in Arkansas as of February 27, 2021. *Id.* at pp. 96-101.

10. On September 10, 2021, Respondent filed a response to the civil complaint wherein she stated she moved to Arkansas on March 2, 2021. *Id.* at pp. 102-104.
11. A report from the Work Number documented that Respondent worked at [REDACTED] from [REDACTED] 2021, to [REDACTED] 2021. *Id.* at pp. 107-108. Respondent reported an address in [REDACTED], Arkansas. *Id.* Respondent's first pay was received on [REDACTED] 2021. *Id.*
12. On October 30, 2021, Respondent entered into a lease agreement for an apartment in [REDACTED] Arkansas with [REDACTED] beginning October 30, 2021, to October 29, 2022. *Id.* at pp. 109-116. Respondent listed a [REDACTED], Arkansas address as her prior address with a move-in date of April 15, 2021. *Id.* at pp. 109. Further, Respondent reported residing in [REDACTED] MI until April 12, 2020. *Id.*
13. A report from the Work Number documented that Respondent worked at [REDACTED] from November 29, 2021, to March 22, 2022. *Id.* at pp. 122-123. Respondent reported an address in [REDACTED] Arkansas. *Id.* Respondent's first pay was received on December 9, 2021. *Id.*
14. On [REDACTED] 2022, Respondent submitted a Redetermination for FAP. Respondent reported she resided at [REDACTED] Michigan. *Id.* at pp. 124-129.
15. Respondent's signature on the Assistance Application and Redetermination certified that she read and understood the rights and responsibilities. This would include providing accurate information and timely reporting changes. *Id.* at pp. 14-19; 78-82; 124-129.
16. Respondent was aware of the responsibility to accurately report information and any changes to the Department. *Id.* at pp. 14-19; 78-82; 124-129; DHHS-1171 Information Booklet Rev. 3-20.
17. On [REDACTED] 2022, Respondent applied for health care and Supplemental Nutrition Assistance Program (SNAP) benefits in Arkansas. Respondent reported she resided in Arkansas and did not report receiving benefits in another state. *Id.* at pp. 130-144.
18. On [REDACTED], 2022, Respondent applied for health care and SNAP benefits in Arkansas. Respondent reported she resided in Arkansas and did not report receiving benefits in another state. *Id.* at pp. 146-160.
19. Respondent did not have an apparent physical or mental impairment that would limit the ability to understand or fulfill the reporting requirements. *Id.* at p. 177.
20. Respondent has no prior IPV disqualifications.

21. On October 23, 2023, the Department filed a hearing request alleging that Respondent intentionally failed to report moving out of state and household income and as a result, received FAP benefits from May 1, 2021, to April 30, 2022, (FAP fraud period) and MA benefits from May 1, 2021, to November 30, 2022, (MA fraud period) that Respondent was ineligible to receive. The Department requested that (i) Respondent repay to the Department \$3,895.00 for FAP benefits and \$3,304.19 for MA benefits that Respondent was ineligible to receive and (ii) Respondent be disqualified from receiving FAP benefits for a period of 12 months due to committing an IPV. *Id.* at pp. 1-180.
22. 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 MDHHS Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Adult Services Manual (ASM), and Reference Tables Manual (RFT).

The 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 MA program is established by Title XIX of the Social Security Act, 42 USC 1396 to 42 USC 1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10 to 42 CFR 430.25. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq.*

Intentional Program Violation

An IPV occurs when a recipient of Department benefits intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts. 7 CFR 273.16(c)(1). Effective October 1, 2014, the Department's OIG requests IPV hearings for cases where (1) the total repayment amount sought from Respondent for all programs combined is \$500 or more or (2) the total repayment amount sought from Respondent for all programs combined is less than \$500 but the group has a previous IPV, the matter involves concurrent receipt of assistance, the IPV involves FAP trafficking, or the alleged fraud is committed by a state government employee. BAM 720 (October 1, 2017), p. 12-13.

To establish an IPV, the Department 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, 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. Evidence may be uncontroverted and yet not be clear and convincing; conversely, evidence may be clear and convincing despite the fact that it has been contradicted. *Smith* at 115. 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). For an IPV based on inaccurate reporting, Department policy also requires that the individual have been clearly and correctly instructed regarding the reporting responsibilities and have no apparent physical or mental impairment that limits the ability to understanding or fulfill these reporting responsibilities. BAM 720, p. 1.

In this case, the Department alleges that Respondent committed an IPV based on a failure to report moving out of state and household income, resulting in receiving a greater amount of FAP benefits from May 1, 2021, to April 30, 2022 (FAP fraud period) and MA benefits from May 1, 2021, to November 30, 2022, (MA fraud period) than Respondent was eligible to receive.

The Department has established that Respondent was aware of the responsibilities to accurately report information and to timely report any changes to the Department. Households are required to report changes in residence and the resulting change in shelter costs. 7 CFR 273.12(a)(1)(i)(D)(iii). Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within 10 days. This includes changes with residence and income. BAM 105 (October 1, 2021), pp. 11-13. Further, clients must completely and truthfully answer all questions on forms and in interviews. BAM 105, p. 9. Respondent’s signature on the Assistance Application and Redetermination certified that that she read and understood the rights and responsibilities. Exhibit A, pp. 14-19; 78-82; 124-129. This would include providing accurate information and timely reporting changes. The rights and responsibilities were reviewed with Respondent during the interview. *Id.* at pp. 83-85. The Notice of Case Action and Health Care Coverage Determination Notice also reminded Respondent of the responsibility to report changes that may affect eligibility within 10 days. *Id.* at pp. 14-19; 78-82; 124-129; DHHS-1171 Information Booklet Rev. 3-20. Respondent did not have an apparent physical or mental impairment that would limit the ability to understand or fulfill the reporting requirements. *Id.* at p. 177.

On May 12, 2020, Respondent submitted an Assistance Application for MA and FAP benefits in Michigan and reported she was homeless and listed a mailing address at [REDACTED] MI. *Id.* at pp. 14-19. Respondent also reported that she had no income. *Id.* On [REDACTED] 2021, and [REDACTED] 2022, Respondent submitted a Redetermination for FAP wherein Respondent reported she resided at [REDACTED] Michigan. *Id.* at pp. 78-82; 124-129. On April 1, 2021, an interview was completed with Respondent who indicated she does not have a regular nighttime residence and sleeps house to house, but she intends to remain in Michigan. *Id.* at pp. 83-84. The rights and responsibilities were reviewed with Respondent. *Id.* at pp. 83-85.

On May 14, 2020, a Notice of Case Action was issued to Respondent approving FAP benefits for the household size of 1. The Notice contained a budget summary showing no earned income was included in the FAP budget. *Id.* at pp. 70-77. However, the evidence indicates Petitioner moved to Arkansas and began working there.

From March 19, 2021, to April 30, 2022, Respondent's Michigan issued FAP benefits were utilized exclusively in Arkansas. *Id.* at pp. 86-91. A report from the Work Number documented that Respondent worked at [REDACTED] from [REDACTED], 2021, to [REDACTED] 2021. *Id.* at pp. 107-108. Respondent reported an address in [REDACTED] Arkansas. *Id.* Respondent's first pay was received on [REDACTED] 2021. *Id.* Another report from the Work Number documented that Respondent worked at [REDACTED] from [REDACTED] 2021, to [REDACTED], 2022. *Id.* at pp. 122-123. Respondent reported an address in [REDACTED] Arkansas. *Id.* Respondent's first pay was received on [REDACTED] 2021. *Id.* There was no evidence that Respondent reported moving out of state and her income to the Department in accordance with the reporting responsibilities.

The evidence establishes that Respondent failed to timely report her move out of state and household income to the Department within 10 days, as required by policy. Respondent's change in residency was utilized to re-determine FAP and MA eligibility during the fraud period. Respondent's failure to timely and accurately report the change in residency resulted in an OI of FAP and MA benefits. Therefore, the Department has presented clear and convincing evidence that Respondent committed an IPV.

IPV Disqualification

An individual who is found pursuant to an IPV disqualification hearing to have committed a FAP IPV is disqualified from receiving benefits for the same program for 12 months for the first IPV, 24 months for the second IPV, and lifetime for the third IPV. 7 CFR 273.16(b)(1); BAM 720, p. 16. As discussed above, the Department has established by clear and convincing evidence that Respondent committed an IPV. Respondent has no prior IPV disqualifications. Because this was Respondent's first IPV, Respondent is subject to a 12-month disqualification from receipt of FAP benefits.

Overissuance

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OI as a recipient claim. 7 CFR 273.18(a)(2); BAM 700, (October 1, 2018), 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 (October 1, 2017), p. 6; BAM 705 (October 1, 2018), p. 6. For MA, if the OI is due to any reason other than unreported income or a change affecting need allowance, the OI amount is the amount of MA payments. BAM 710, January 1, 2018, pp. 1-2.

In this case, the Department alleged that Respondent was overissued FAP and MA benefits totaling \$7,199.19 during the fraud period. From May 1, 2021, to April 30, 2022, Respondent received \$3,895.00 in FAP benefits subject to recoupment. Exhibit A, pp. 167-172. From May 1, 2021, to November 30, 2022, the Department paid \$3,304.19 towards Respondent's MA coverage. *Id.* at pp. 173-176. However, when the change in residency was utilized to redetermine eligibility, Respondent was ineligible to receive FAP and MA benefits during the fraud period. Therefore, the Department is entitled to repayment from Respondent of \$3,895.00 in overissued FAP benefits and \$3,304.19 in overissued MA benefits.

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 IPV.
2. Respondent is subject to a 12-month disqualification from FAP.
3. Respondent received an OI of FAP benefits in the amount of \$3,895.00 and an OI of MA benefits in the amount of \$3,304.19.

IT IS ORDERED that the Department initiate recoupment and/or collection procedures in accordance with Department policy for a FAP OI in the amount of \$3,895.00 and a MA OI in the amount of \$3,304.19, less any amounts already recouped/collected for the fraud period.

IT IS FURTHER ORDERED that Respondent be personally disqualified from FAP for a period of 12 months.

DH/pt



Danielle R. Harkness
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

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:

Respondent

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