



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

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Date Mailed: June 4, 2024  
MOAHR Docket No.: 23-007427  
Agency No.: ██████████  
Petitioner: OIG  
Respondent: ██████████

**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 June 4, 2024. The Department was represented by Office of Inspector General (OIG) Regulation Agent Adriane Laugavitz. Jessica Eirosius, Regulation Agent, was present as an observer of the hearing. Respondent, Melissa Barnes, did not appear. The hearing was held in Respondent’s absence pursuant to 7 CFR 273.16(e)(4).

A 44-page packet of documents provided by the Department was admitted collectively as the Department’s Exhibit A.

**ISSUES**

1. Did the Department establish by clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV)?
2. Should Respondent be disqualified from receiving Food Assistance Program (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 ██████████ 2022, Respondent applied for FAP benefits from the Department. Exhibit A, pp. 8-14. In her ██████████ 2022, application, Respondent reported that she had no income. *Id.*
2. On July 22, 2022, the Department mailed a notice of case action to Respondent to notify her that she was approved for FAP benefits based on reported earned

income of \$0.00 per month. *Id.* at pp. 15-19. The Department instructed Respondent to report all changes in household income to the Department within 10 days of the date of the change. *Id.* at p. 19.

3. Respondent did not have any impairment that would have limited her understanding of her reporting responsibilities or her ability to carry out her reporting responsibilities. Regulation Agent Testimony.
4. Beginning August 12, 2022, Respondent was employed at [REDACTED] and received her first paycheck on September 2, 2022. *Id.* at pp. 29-30. The Work Number shows that Respondent continued to receive a paycheck from [REDACTED] until July 7, 2023. *Id.*
5. From March 1, 2023, through June 30, 2023, Respondent was receiving FAP benefits from the Department while she was employed at [REDACTED] and Respondent did not report to the Department that she had a change in household income from her employment. *Id.* at p. 33.
6. The Department was unaware of Respondent's change in household income, so the Department continued to issue FAP benefits to Respondent while she was working and earning income. *Id.*
7. On [REDACTED] 2023, Respondent reapplied for FAP benefits. Upon the department's processing of her [REDACTED] 2023, application, the Department discovered Respondent was earning income from employment, so the Department initiated an investigation of Respondent's case. *Id.* at p. 1.
8. On July 20, 2023, the Department verified Respondent's earned income from her employment at [REDACTED] via The Work Number. *Id.* at pp. 29-30.
9. During the Department's investigation, the Department determined that it overissued FAP benefits to Respondent because she had unreported household income.
10. The Department determined that Respondent was overissued \$1,055.00 in FAP benefits from March 1, 2023, through June 30, 2023. *Id.* at p. 33.
11. The Department established a claim for the amount of the overissuance.
12. On November 1, 2023, the Department's OIG filed a hearing request to establish that Respondent committed an IPV. *Id.* at pp. 1-44.
13. The Department's OIG requested that Respondent be disqualified from FAP for 12 months for a first IPV. *Id.* at p. 4.

14. A notice of hearing was mailed to Respondent at Respondent's 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).

#### **Intentional Program Violation**

An 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 a change in income that Respondent purposely failed to report to the Department so that Respondent could maintain Respondent's FAP benefits. Respondent was required to report changes in Respondent's 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 Respondent had a change in income within 10 days of the date of the change.

#### **Disqualification**

In general, individuals found to have committed an IPV 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).

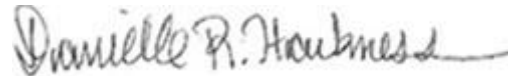
In this case, there is no evidence that Respondent has ever been found to have committed an IPV related to FAP benefits. Thus, this is Respondent's first IPV related to FAP benefits, and Respondent is subject to a 12-month disqualification from FAP.

**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. The Department established by clear and convincing evidence that Respondent committed an IPV.
2. Respondent is personally disqualified from the Food Assistance Program for 12 months.

**IT IS SO ORDERED.**



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**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**

Melissa Erdman  
Huron County DHHS  
1911 Sand Beach Road  
Bad Axe, MI 48413  
**MDHHS-Huron-Hearing@michigan.gov**

**Interested Parties**

Huron County DHHS  
Policy Recoupment  
N. Stebbins  
MOAHR

**Via First Class Mail:**

**Respondent**

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