



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 12, 2024  
MOAHR Docket No.: 23-007964  
Agency No.: [REDACTED]  
Petitioner: OIG  
Respondent: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness**

**HEARING DECISION**  
**FOR INTENTIONAL PROGRAM VIOLATION (TRAFFICKING)**

The Michigan Department of Health and Human Services (Department) requested a hearing alleging that Respondent, [REDACTED], committed an intentional program violation (IPV) by trafficking Food Assistance Program (FAP) benefits. Pursuant to the Department's 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 June 11, 2024. James Disser, Regulation Agent of the Office of Inspector General (OIG), represented the Department. Respondent did not appear at the hearing, and it was held in Respondent's absence pursuant to 7 CFR 273.16(e)(4).

A 38-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 IPV by trafficking FAP benefits?
2. Should Respondent be disqualified from receiving FAP benefits?

**FINDINGS OF FACT**

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

1. In an assistance application submitted to the Department on September 14, 2022, the Department notified Respondent of the FAP usage responsibilities. Exhibit A, pp. 16-22. This includes ensuring that FAP benefits are not used by unauthorized persons, must only be used to purchase eligible food for the FAP household members, and that buying or selling FAP benefits was prohibited. *Id.* p. 21.

2. Beginning July 21, 2023, Respondent received FAP benefits, but the FAP benefits were never accessed as of October 30, 2023, resulting in Respondent accumulating \$1,088.00 in FAP benefits. *Id.* p. 28.
3. On [REDACTED], 2023, Respondent offered to sell \$500.00 in FAP benefits for \$225.00 online via his Facebook page. *Id.* pp. 8-11.
4. Respondent did not have an apparent physical or mental impairment that would limit the ability to understand or fulfill the FAP usage responsibilities. Ex. A, p. 35; Regulation Agent Testimony.
5. Respondent has no prior FAP IPV disqualifications. Ex. A, pp. 37-38.
6. On November 3, 2023, the Department filed a hearing request alleging that Respondent intentionally trafficked FAP benefits on October 11, 2023. The OIG requested that Respondent be disqualified from receiving FAP benefits for a period of 12 months due to committing an IPV by trafficking. *Id.* at pp. 1, 5.
7. 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**

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

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

The Department 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, 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. 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, the Department alleged that Respondent committed an IPV by trafficking FAP benefits by offering to sell his FAP benefits via his Facebook page. Exhibit A, pp. 8-11.

Respondent’s signature on the assistance application certified that Respondent read and understood the rights and responsibilities. *Id.* p 22. This includes ensuring that FAP benefits are used legally and that buying or selling FAP benefits was prohibited. *Id.* at p. 21. Respondent did not have an apparent physical or mental impairment that would limit the ability to understand or fulfill the FAP usage responsibilities. *Id.* p. 35.

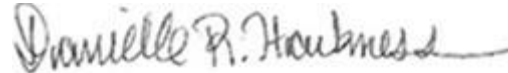
On [REDACTED], 2023, Respondent offered to sell \$500.00 in FAP benefits for \$225.00 online via his Facebook page. *Id.* pp. 8-11. The Department also sent Respondent’s Facebook profile cover photo to the Michigan State Police Statewide Network of Photos (MSP SNAP) for facial recognition analysis. The MSP SNAP report identified Respondent as the person in the pictures. *Id.* pp. 14-15.

Under the facts presented, the Department has established by clear and convincing evidence that Respondent trafficked FAP benefits by offering to sell Respondent’s FAP benefits via his Facebook page. Thus, Respondent committed an IPV. 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). Because Respondent had no prior FAP IPV violations, Respondent is subject to a 12-month disqualification from the FAP program. 7 CFR 273.16(b), BAM 720, p. 16, and Ex. A., pp. 37-38.

**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 Respondent committed an IPV by trafficking FAP benefits and is subject to a FAP disqualification.

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



DH/pt

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**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**

Gary Leathorn - 74  
St Clair County DHHS  
220 Fort St.  
Port Huron, MI 48060  
**MDHHS-STCLAIR-HEARINGS@michigan.gov**

**Interested Parties**

St. Clair County DHHS  
Policy Recoupment  
N. Stebbins  
MOAHR

**Via-First Class Mail:**

**Respondent**

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