



GRETCHEN WHITMER  
GOVERNOR

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

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DIRECTOR

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Date Mailed: July 12, 2024  
MOAHR Docket No.: 23-008001  
Agency No.: ██████████  
Petitioner: OIG  
Respondent: ████████████████████

**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 Katelyn Watson committed an intentional program violation (IPV). Pursuant to MDHHS' request and in accordance with MCL 400.9, 7 CFR 273.16, 42 CFR 431.230(b), and 45 CFR 235.110, and Mich Admin Code, R 400.3130 and R 400.3178, this matter is before the undersigned Administrative Law Judge. After due notice, a hearing was held via telephone conference on June 12, 2024. Gretchen Heinrich, 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); Mich Admin Code, R 400.3130(5); or Mich Admin Code, R 400.3178(5). MDHHS' Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-91.

**ISSUES**

1. Did MDHHS establish, by clear and convincing evidence, that Respondent committed an IPV concerning Food Assistance Program (FAP) benefits?
2. Should Respondent be disqualified from receiving FAP benefits?
3. Did Respondent receive an overissuance (OI) of FAP benefits that MDHHS is entitled to recoup and/or collect as a recipient claim?

**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 ██████████ 2020, Respondent submitted a FAP Application on behalf of her household, including ██████████ (Partner) (Exhibit A, pp. 7-9). Respondent reported that Partner had employment at ██████████ (Employer) but that he

was recently laid off (Exhibit A, p. 12). Respondent signed the application electronically (Exhibit A, p. 13).

2. On September 15, 2020, MDHHS sent Respondent a Notice of Case Action, which indicated that she was approved for FAP benefits for a household size of four, beginning September 1, 2020 (Exhibit A, p. 14). The FAP benefit rate was based on no earned income (Exhibit A, p. 15). The notice included boilerplate language advising that FAP beneficiaries have a responsibility to report changes in circumstances within ten days (Exhibit A, p. 18).
3. On ██████████ 2021, Respondent submitted a FAP Renewal (Exhibit A, p. 37). Respondent indicated that she and Partner were receiving Unemployment Compensation Benefits (UCB) (Exhibit A, p. 38). No other income was reported.
4. On or about ██████████, 2021, Partner returned to work at Employer, receiving a paycheck on ██████████ 2021 (Exhibit A, p. 51). Partner continued working at Employer until at least ██████████, 2022 (Exhibit A, p. 51).
5. On August 18, 2021, Respondent completed a telephone interview with MDHHS (Exhibit A, p. 40). Respondent reported that Partner was in the household and that the only income for the household was UCB (Exhibit A, p. 41).
6. From September 1, 2021 to April 30, 2022, Respondent received \$6,525.00 in FAP benefits for a four-person FAP group.
7. Respondent was aware of the responsibility to report truthful and accurate information regarding her circumstances.
8. No evidence was presented to show that Respondent had an apparent physical or mental impairment that would limit the understanding or ability to accurately report truthful and accurate information regarding her circumstances.
9. Respondent has no prior FAP IPV disqualifications.
10. On November 6, 2023, MDHHS' OIG filed a hearing request alleging that Respondent intentionally misrepresented household income and as a result received FAP benefits from September 1, 2021 to April 30, 2022 (alleged fraud period) that Respondent was ineligible to receive. OIG requested that (i) Respondent repay \$5,690.00 to MDHHS for FAP 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.
11. 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), Adult Services Manual (ASM), 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 400.3031.

### **Intentional Program Violation**

An IPV occurs when a recipient of MDHHS benefits intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts. 7 CFR 273.16(c)(1). Effective October 1, 2014, MDHHS'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 client has had at least two client errors previously, or the alleged fraud is committed by a state government employee. BAM 720 (October 1017), p. 5.

To establish an IPV, 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, 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, MDHHS 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, MDHHS alleged that Respondent committed an IPV based on failing to report household earned income timely and misrepresenting household income to MDHHS during an eligibility interview. Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2019), p. 9. Cooperation includes completely and truthfully answering all questions on forms and in interviews. *Id.* Clients must also report changes in circumstances that may affect eligibility for program benefits within ten days of receiving the first payment reflecting the change. *Id.*, p. 11.

Regarding income, clients are required to report starting or stopping employment, changes in rate of pay and changes in hours worked. *Id.*

MDHHS presented evidence that Partner returned to work at Employer in ■■■ 2021, receiving a paycheck on ■■■■ 2021 (Exhibit A, p. 51). Subsequently, Petitioner completed an eligibility interview with MDHHS on August 18, 2021, and reported that the only income for the household was UCB. Based on the evidence presented, this was a false statement. No additional evidence was presented that Respondent attempted to report Partner's income at Employer to MDHHS.

Respondent's misrepresentation and failure to properly report the income to MDHHS during the eligibility interview led to an OI of FAP benefits. MDHHS informed Respondent of her responsibility to truthful and accurate information regarding household income. No evidence was presented that Respondent had an impairment which would have prevented her from understanding her rights and responsibilities. Therefore, MDHHS 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, MDHHS has established by clear and convincing evidence that Respondent committed an IPV. There was no evidence of prior IPV's by Respondent. Because this was Respondent's first IPV for FAP, Respondent is subject to a 12-month disqualification from the receipt of FAP benefits.

### **Overissuance**

When a client group receives more benefits than entitled to receive, MDHHS must attempt to recoup the OI as a recipient claim. 7 CFR 273.18(a)(2); BAM 700 (October 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.

In this case, MDHHS alleged that Respondent was overissued FAP benefits totaling \$5,690.00 during the alleged fraud period. Due to the COVID-19 pandemic, the federal government authorized the State of Michigan to issue EA to all FAP households, meaning that FAP households not receiving the maximum benefit for their group size would receive a supplement to bring their benefit amount to the maximum for their group size. ESA Memo 2020-15 (March 2020; updated December 2020). The State of Michigan issued EA from April 2020 to December 2021. ESA Memo 2022-02 (January 2022). The EA and ongoing benefit rate are only recoupable if the FAP group is not eligible for any benefits during the benefit month at issue.

The record shows that Respondent received \$6,525.00 in FAP benefits during the alleged fraud period. MDHHS introduced OI budgets which recalculated the household's

FAP benefit rate after adding in the unreported income from Employer (Exhibit A, pp. 61-67). Based on these budgets, MDHHS determined that the household was ineligible for FAP benefits due to excess income during every month in the alleged fraud period except for February 2022 (Exhibit A, p. 60). Because the household was eligible for benefits during that month, it was entitled to receive the maximum amount for the household size, which was \$835.00. Subtracting \$835.00 from the total amount of \$6,525.00 equals \$5,690.00. Therefore, MDHHS is entitled to repayment from Respondent of \$5,690.00 in overissued FAP 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. MDHHS 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 did receive an OI of FAP benefits in the amount of \$5,690.00.

**IT IS ORDERED** that MDHHS initiate recoupment and/or collection procedures in accordance with MDHHS policy for a FAP OI in the amount of \$5,690.00, 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.

LJ/pt



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**Linda Jordan**  
Administrative Law Judge

