



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]
[REDACTED] MI [REDACTED]

Date Mailed: July 2, 2024
MOAHR Docket No.: 23-008360
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

The Michigan Department of Health and Human Services (MDHHS or the Department) requested a hearing alleging that Respondent [REDACTED] 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 26, 2024. Allyson Carneal, 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).

ISSUES

Did Respondent receive an overpayment (OP) of Food Assistance Program (FAP) benefits in the amount of \$939.00 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 [REDACTED], 2022, Respondent applied for FAP benefits for a group size of three, consisting of her two minor children and herself. Respondent reported that only household income was her employment at [REDACTED] (Respondent Employer). Prior to submission of the application, Respondent must agree that the information provided to MDHHS is true to the best of her belief under penalty of perjury and must review rights and responsibilities as a FAP recipient (Exhibit A, pp. 8-16).

2. On January 4, 2023, Respondent was interviewed by MDHHS as part of the application process. Respondent reported the father of her children is [REDACTED] (Father). Respondent reported that Father stays 1-2 times per week at her home. Respondent reported that Father has not worked in the past six months (Exhibit A, pp. 17-23).
3. From December 15, 2022 through January 20, 2023, Father began worked for [REDACTED] (Father Employer) (Exhibit A, pp. 24-26).
4. From December 1, 2022 through January 31, 2023, Respondent received \$1,878.00 in FAP benefits (Exhibit A, p. 27).
5. No evidence was presented that Respondent had an apparent physical or mental impairment that would limit the understanding or ability to accurately report information regarding her circumstances.
6. On November 21, 2023, MDHHS OIG filed a hearing request alleging that Respondent intentionally concealed that Father had earned income and as a result received FAP benefits from December 1, 2022 through January 31, 2023 that Respondent was ineligible to receive. OIG requested that Respondent repay \$939.00 to MDHHS for FAP benefits that Respondent was ineligible to receive.
7. On January 11, 2024, MDHHS OIG received a signed Request for Waiver of Disqualification Hearing from Respondent, indicating that she did not admit the facts as presented; however, she chose to accept a one-year disqualification from FAP as a penalty and waive her right to a hearing (Exhibit B, pp. 1-2).
8. 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.

MDHHS may request a hearing to establish an intentional program violation, a disqualification or a debt. BAM 600 (March 2021) p. 5. In this case, MDHHS requested a hearing to establish a debt, alleging that Respondent failed to properly report her

household income as required, which led to a FAP OP. Specifically, MDHHS alleged that Respondent concealed Father's earned income from employment.

When a client group receives more benefits than entitled to receive, MDHHS must attempt to recoup the OP as a recipient claim. 7 CFR 273.18(a)(2); BAM 700 (October 2018), pp. 1-2. The amount of a FAP OP 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 2017), pp. 5-7.

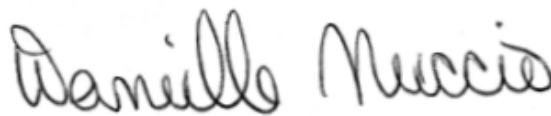
MDHHS calculates the OP total by calculating what Respondent's FAP budget would have been if Father's earned income from employment would have been included in the budget. MDHHS determined what Respondent's monthly benefit amount should have been if earned income was included in her FAP budget by using the income information received from Father Employer (Exhibit A, pp. 24-26). MDHHS then subtracts the correct benefit amount from the actual benefit amount to determine the OI amount (see Exhibit A, pp. 28-32).

MDHHS calculated that had Father's earned income been included in the household budget during the fraud period, then the household would have been eligible to receive \$939.00 in total FAP benefits. During the fraud period, Respondent received \$1,878.00 in FAP benefits. Therefore, MDHHS is entitled to repayment from Respondent of \$939.00 in overissued FAP benefits.

DECISION AND ORDER

IT IS ORDERED that MDHHS initiate recoupment and/or collection procedures in accordance with MDHHS policy for a FAP OP in the amount of \$939.00, less any amounts already recouped/collected for the fraud period.

DN/pt



Danielle Nuccio
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
Kristina Etheridge
Calhoun County DHHS
190 East Michigan
Battle Creek, MI 49016
MDHHS-Calhoun-Hearings@michigan.gov

Interested Parties
Calhoun County DHHS
Policy Recoupment
N. Stebbins
MOAHR

Via-First Class Mail:

Respondent
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]