



Date Mailed: August [REDACTED], 2025
Docket No.: 25-002541
Case No.: [REDACTED]
Petitioner: OFFICE OF INSPECTOR
GENERAL (OIG)



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هذه وثيقة قانونية مهمة. يرجى أن يكون هناك شخص ما يترجم المستند.

এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ
দস্তাবেজ অনুবাদ করুন।

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这是一份重要的法律文件，请让别人翻译文件。

Ky është një dokument ligjor i rëndësishëm. Ju
litem, kini dikë ta përktheni dokumentin.

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HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

The Michigan Department of Health and Human Services (Department) requested a hearing alleging that Respondent committed an intentional program violation (IPV). Pursuant to the Department's 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 by telephone commenced on June 16, 2025 and was completed on July 21, 2025. John Bower, Regulation Agent of the Office of Inspector General (OIG), represented the Department. Respondent did not appear at the original or continued 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).

The Department's 212-page hearing packet was admitted into evidence as Exhibit A.

ISSUES

1. Did the Department 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 for 12 months?
3. Did Respondent receive an overpayment (OP) of FAP benefits that the Department 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 January 30, 2021, the Department received an application for FAP benefits from Respondent for himself. Respondent reported that he resided at [REDACTED] [REDACTED] (Home Address). (Exhibit A, pp. 12 – 17).
2. On February 18, 2021, the Department interviewed Respondent. Respondent reported that his household consisted of himself and his daughter. (Exhibit A, p. 101, Serial No. 17).

3. On May 11, 2021, the Department processed a State Emergency Relief (SER) application from Respondent. Respondent reported that his household consisted of himself and his daughter. (Exhibit A, p. 100, Serial No. 26).
4. On September 7, 2021, the Department received an application for FAP benefits from [REDACTED] (Mother), Respondent's wife and mother of their minor daughter, [REDACTED] (Child), for herself and Child. Mother reported that she and Child lived at [REDACTED] (Mother's Address), and that Child resided with her 30 days of each month. (Exhibit A, pp. 21 – 27).
5. On September 8, 2021, the Department interviewed Mother. Mother reported that Child resided with her 30 days of each month, and that she and Respondent were in the process of a divorce. (Exhibit A, pp. 28 – 30).
6. On October 27, 2021, a consent Judgment of Divorce (JOD) was entered between Respondent and Mother by the 3rd Judicial Circuit Court for Wayne County, Michigan. The JOD provided that a) Respondent and Mother had joint legal custody of Child, b) Mother had physical custody of Child, and c) Child was a legal resident of both Respondent's and Mother's homes. (Exhibit A, pp. 32 – 35).
7. On January 1, 2022, the Department received a completed FAP renewal application from Respondent for himself and Child. Respondent reported that Child was in the home. (Exhibit A, pp. 38 – 39).
8. On January 4, 2022, the Department interview Respondent. Respondent reported that Child lived in the household 15 days each month. (Exhibit A, pp. 40 – 42).
9. On January 4, 2022, the Department approved Respondent for FAP benefits for a two-person FAP group. (Exhibit A, p. 99, Serial No. 47).
10. On September 22, 2022, the Department received a completed SER application from Respondent. Respondent reported that Child was in the home. (Exhibit A, pp. 56 – 62).
11. On February 23, 2023, the Department interview Respondent. (Exhibit A, p. 98, Serial No. 76 – 77).
12. On March 9, 2023, the Department approved Respondent for FAP benefits for a two-person FAP group. (Exhibit A, p. 98, Serial No. 79).
13. On March 27, 2023, Respondent was hired by [REDACTED] (Employer). (Exhibit A, p. 72).
14. On March 31, 2023, Respondent received his first paycheck from Employer. Respondent's employment with Employer continued until at least October 8, 2023. (Exhibit A, pp. 73 – 89).

15. On October 2, 2023, the Department received a completed SER application from Respondent. Respondent reported that Child was in the home, and that he had no income. (Exhibit A, pp. 90 – 95).

16. As of at least October 22, 2024, Child was enrolled at Edison Elementary (School) and School's records reflected:

- a. Child's address was Mother's Address,
- b. Child's primary contacts were Respondent and Mother,
- c. Child lived with Respondent, and
- d. Child's household was Respondent and Child.

(Exhibit A, pp. 36 – 37).

17. From January 1, 2022 to October 31, 2023, Respondent received [REDACTED] in ongoing FAP benefits and Emergency Allotments (EA). Respondent also received Pandemic EBT (P-EBT) for Child's benefit during that time. (Exhibit A, pp. 103 – 109).

18. Respondent was aware of the responsibility to provide truthful and accurate information to the Department and accurately report his household composition. (Exhibit A, p. 42).

19. Respondent does not have an apparent physical or mental impairment that would limit the understanding or ability his responsibility to provide truthful and accurate information to the Department and accurately report his household composition. (Exhibit A, pp. 14, 209).

20. Respondent has no prior FAP IPV disqualifications.

21. On January 21, 2025, the Department's OIG filed a hearing request alleging that Respondent intentionally misrepresented his household composition when he reported Child was living in the household when she was not, and that Respondent intentionally failed to report a change in his income to the Department, and as a result received FAP benefits from January 1, 2022 to October 31, 2023 (fraud period) that Respondent was ineligible to receive. OIG requested that (i) Respondent repay [REDACTED] to the Department 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.

22. A notice of hearing was mailed to Respondent at his last known address and was not returned by the United States Postal Services as undeliverable.

CONCLUSIONS OF LAW

Department policies are contained in the Department's 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. The Department 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 Department alleges Respondent committed an IPV because he intentionally misrepresented his household composition when he reported Child as living in his household when she was not, and because he intentionally failed to report changes in his income to the Department. The Department requested that Respondent be disqualified from receiving FAP benefits for a period of 12 months for this first IPV and to recoup overpayments made to Respondent under the FAP program.

Intentional Program Violation

An IPV occurs when a recipient of the Department benefits intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. 7 CFR 273.16(c)(1); BAM 720 (June 2024), p. 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, pp. 7 – 8.

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. 2. 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 uncontested 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. 2.

In this case, the Department alleges that Respondent committed an IPV when he a) misrepresented his household composition because he reported Child as living in his household when she was living with Mother, and b) intentionally failed to report changes in his income to the Department.

Household Composition From 2022 to 2023

Clients must cooperate with the local office in determining initial and ongoing eligibility, which includes the requirement that clients must completely and truthfully answer all questions on forms and in interviews, including who resides in their household. BAM 105 (October 2021), p. 9; BEM 212 (January 2022), p. 1. Minor children who live with their parent must be included in the parent's FAP group. BEM 212, p. 1. However, if minor children live with both parents who do not live together, the Department must determine who the primary caretaker is because only one person can be the primary caretaker. BEM 212, p. 3.

The primary caretaker is the person who is primarily responsible for a child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in the course of a twelve-month period. BEM 212, p. 2 – 4. If the Department determines that the child spends virtually half of the days in each month, averaged over a twelve-month period with each caretaker, the caretaker who applies and is found eligible first, is the primary caretaker. BEM 212, pp. 4, 10.

When primary caretaker status is questionable or disputed, the Department must re-evaluate who the child's primary caretaker is based on the evidence provided by the caretakers. BEM 212, pp. 5, 12. Each caretaker must be given the opportunity to provide evidence supporting his or her claim of primary caretaker. BEM 212, p. 12. Suggested verifications include, but are not limited to:

- The most recent court order that addresses custody and/or visitation.
- School records indicating who enrolled the child in school, first person contacted in case of emergency, and/or who arranges for child's transportation to and from school.
- Child care records showing who makes and pays for child care arrangements, and who drops off and picks up the child(ren).
- Medical providers' records showing where the child lives and who generally takes the child to medical appointments.

BEM 212, p. 12.

In this case, the evidence and Department's testimony established that:

- a) Respondent applied for FAP benefits for himself only in January 2021,

- b) The Department interviewed Respondent on February 18, 2021, and determined Child was a member of Respondent's FAP group (Exhibit A, p. 101, Serial No. 17),
- c) The Department determined Respondent was Child's primary caretaker when it approved Respondent for FAP benefits for himself and Child on March 2, 2021 (Exhibit A, p. 101, Serial No. 18), and
- d) Mother applied for FAP benefits for herself and Child on September 7, 2021.

Because there was no evidence that Mother was determined to be Child's primary caretaker on or before January 2021, and Respondent was approved for FAP benefits for himself and Child in March 2021, Mother's assertion that Child resided with her when she applied for FAP benefits in September 2021, was a dispute of Respondent's status as Child's primary caretaker. However, there was no evidence that Respondent and Mother were each given the opportunity to provide evidence supporting his or her claim of being the Child's primary caretaker as a result of Mother's September 2021 FAP benefit application in accordance with policy. BAM 130 (July 2021), p. 1; BAM 220 (August 2021), pp. 7 – 8.

The Department testified that although it did not re-evaluate who Child's primary caretaker was at the time Mother applied for FAP benefits for herself and Child, it did complete a Front-End Eligibility (FEE) investigation regarding Child's primary caretaker and concluded that Child did not reside with Respondent during the alleged fraud period. However, the evidence established that the Department's FEE investigation was conducted two years later, on or about October 11, 2023. (Exhibit A, p. 97, Serial No. 97). The instant hearing arose as a result of the Department's investigation and allegation that Respondent committed an IPV when he reported Child was in his household on and after January 1, 2022.

In support of its allegation that Respondent misrepresented his household composition, the Department introduced Mother's September 2021 application, the JOD entered in October 2021, Child's school records from October 2024, and testimony regarding an interview between the Department and Respondent in January 2025.

However, the Department did not call Mother as a witness or offer any sworn statements of Mother into evidence. Therefore, Mother's statements to the Department, in support of her own efforts to obtain FAP benefits, offered by the Department in support of its allegations that Respondent was not Child's primary caretaker, were hearsay and did not establish that Respondent misrepresented Child's presence in his home from January 1, 2022 to October 31, 2023. Michigan Rules of Evidence (MRE) 801(c); MRE 802; BAM 600 (June 2024), pp. 38 – 39.

The Department also introduced Child's school records in support of its allegations against Respondent. However, Child's school records contained conflicting information. Specifically, the records reflected that Child's address was Mother's Address; but that

Child lived with Respondent, as indicated by a check mark corresponding to Respondent's name on the records; that Child's listed household members were Respondent and Child; and that both Respondent and Mother were listed as Child's primary contacts, the records were not found to be of conclusive evidentiary value. Additionally, the document was date stamped October 22, 2024, which presented a question of whether the information was reflective of the facts in effect from January 1, 2022 to October 31, 2023. Therefore, Child's school records did not establish where Child spent virtually half of the days of each month from January 1, 2022 to October 31, 2023, and were not found to be of conclusive evidentiary value.

The Department testified that Respondent was interviewed in January 2025 and admitted that Child did not reside with him in 2022 and 2023. Although the Department's testimony was consistent with a portion of its investigative report, the report reflected that Respondent also made statements during the interview that conflicted with such an admission. Given the conflict in Respondent's statements during the same interview, his statements to the Department in January 2025 were not found to be of conclusive evidentiary value.

In sum, although the information presented raised some question regarding Respondent's household size from January 1, 2022 to October 31, 2023, the totality of the evidence presented did not clearly establish a) that Respondent misrepresented Child's presence in his home during the alleged fraud period, b) where Child spent virtually half of the days of each month, or c) that the Department re-evaluated who Child's primary caretaker was in accordance with policy.

Because the Department's allegation that Respondent committed an IPV of FAP rests, in large part, on whether he misrepresented himself as Child's primary caretaker when he reported that Child was in his household in and after January 2022, and there was no evidence that the Department completed a re-evaluation of who Child's primary caretaker was in accordance with policy, there was insufficient evidence to determine who the primary caretaker was for the purposes of concluding that Respondent misrepresented Child's presence in his home. Thus, the Department did not present clear and convincing evidence to establish that Respondent intentionally misrepresented himself as the primary caretaker of Child for the purpose of maintaining or preventing reduction of FAP benefits or eligibility. Therefore, the Department did not establish that Respondent committed an IPV of FAP with regard to his household composition.

Change in Income in 2023

In addition to the foregoing, the Department alleged that Respondent committed an IPV of FAP benefits when he failed to report his income from Employer to the Department.

Income changes must be reported by Department clients within 10 days of receiving the first payment reflecting the change unless the client is a simplified reporter (SR). BAM 105 (April 2022), pp. 11 – 12.

In this case, the evidence established that Respondent was hired by Employer on March 27, 2023, and worked for Employer until at least October 2023. Case comments introduced by the Department a) established that Respondent was interviewed by the Department on February 23, 2023, and b) suggested that the interview was conducted for purposes of FAP and SER. However, they were insufficient to establish what Respondent represented to the Department regarding his income or employment. (Exhibit A, p. 98, Serial No. 77). Although the Department introduced an SER application it received from Respondent eight months later, on October 2, 2023, on which Respondent did not report any income or change in employment within the prior 30 days, the Department did not introduce an application, interview guide, or Notice of Case Action (NOCA) related to the February 2023 interview. Thus, the Department did not establish a) what Respondent reported to the Department regarding his income or employment in early 2023, b) whether the Department budgeted any income for Respondent when it determined his FAP benefit eligibility at that time, c) whether Respondent's reporting responsibilities were as a change reporter or SR, or d) that Respondent's reporting responsibilities were explained to him at that time. The Department did not offer any reasonable excuse for its failure to produce documents related to the February 2023 interview. 7 CFR 273.16(e)(4) and (e)(6); see also M Civ JI 6.01.

It is noted that although it appeared that Respondent misrepresented information on the SER application in October 2023, that application alone was not persuasive to establish that he committed an IPV of FAP benefits for the period pre-dating the October 2023 application.

In sum, the evidence presented did not clearly and convincingly establish that Respondent a) was informed that he had an obligation to report a change in his income on and after March 2023, or b) failed to comply with any reporting responsibilities on and after March 2023, and prior to the end of the alleged fraud period, October 31, 2023. Thus, the Department did not establish by clear and convincing evidence that Respondent intended to violate FAP requirements for the purpose of maintaining, or preventing reduction of, FAP program benefits or eligibility. Therefore, the Department has not established that Respondent committed an IPV with regard to changes in his income.

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, pp. 11 – 12.

As discussed above, the Department has not established by clear and convincing evidence that Respondent committed an IPV. Therefore, Respondent is not subject to a disqualification from receipt of FAP benefits.

Overpayment

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the OP as a recipient claim. 7 CFR 273.18(a)(2); BAM 700 (June 2024), p. 1. 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 (June 2024), pp. 4 – 6; BAM 705 (June 2024), p. 5.

Due to the COVID-19 pandemic public health emergency (PHE), the federal government authorized the State of Michigan to issue Emergency Allotments (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 February 2023. ESA Memo 2023-10 (February 2023). In addition, beginning in May 2021, the Department began issuing a minimum \$95 supplement to all FAP households, including households that were already receiving the maximum allotment for their household size. ESA Memo 2021-22 (May 2021). Wrongfully-issued EA are recoupable by the Department if the FAP household was not eligible for any FAP benefits during the month at issue.

Here, the Department alleged Respondent received an OP of FAP benefits and EA in the amount of \$5,475 from January 1, 2022 to October 31, 2023, based on a two-person FAP group that wrongly included Child, and Respondent's failure to report changes in his income. The evidence established that during the alleged fraud period, Respondent was issued at least [REDACTED] in FAP benefits and EA, not including any P-EBT issued to Respondent, based on a two-person FAP group that included Child.

In support of the OP amount sought, the Department introduced revised budgets for each of the months within the fraud period. (Exhibit A, pp. 112 – 135). A review of the revised budgets established that the Department reduced Respondent's FAP group from a two-person group to a one-person group on each month's budget, and budgeted Respondent's earned income in September and October 2023 only.

As explained previously, the Department did not establish that Respondent wasn't Child's primary caretaker during the alleged fraud period. Thus, the Department did not establish that Respondent received a FAP OP based on an incorrect FAP group size. Therefore, the Department is not entitled to recoup an OP of FAP benefits issued to Respondent based on a reduced FAP group size from January 1, 2022 to October 31, 2023.

Although the Department did not establish that it properly reduced Respondent's FAP group size from a two-person group to a one-person group during the alleged fraud period, the evidence established that Respondent had earned income during the September and October 2023 benefit months that the Department had not previously budgeted. The evidence also established that of the [REDACTED] FAP OP the Department

alleged Respondent received, [REDACTED] is attributable to September and October 2023. However, because the amount the Department requests to recoup for September and October 2023 was based on a one-person FAP group, not a two-person group, the Department failed to establish that it is entitled to recoup an OP of FAP benefits in the amount of [REDACTED] for those benefit months.

Based on the totality of the evidence, the Department failed to establish that Respondent received a FAP OP of [REDACTED] based on an incorrect FAP group size from January 1, 2022 to August 31, 2023; and based on a two-person FAP group, the Department failed to establish that Respondent received a FAP OP of [REDACTED] based on Respondent's earned income from September 1, 2023 to October 31, 2023. Therefore, the Department has not established that it is entitled to repayment of an OP of FAP benefits in the amount of [REDACTED]

DECISION AND ORDER

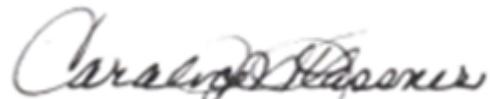
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, concludes that:

1. The Department has not established by clear and convincing evidence that Respondent committed an IPV.
2. Respondent is not subject to a 12-month disqualification from FAP.
3. The Department has not established that Respondent received an OP of FAP benefits in the amount of [REDACTED]

IT IS ORDERED that the Department delete the FAP OP for the period from January 1, 2022 to August 31, 2023, in the amount of [REDACTED] and cease any recoupment/collection action as to that period and amount.

IT IS FURTHER ORDERED that the Department redetermine if Respondent received a FAP OP from September 1, 2023 to October 31, 2023, based on Respondent's two-person FAP group; and if so, notify Respondent of the Department's recalculated FAP OP in accordance with Department policy, including any hearing rights required by policy.

IT IS ORDERED that the Department's request to disqualify Respondent from FAP is DENIED.



25-002541

CARALYCE M. LASSNER
ADMINISTRATIVE LAW JUDGE

APPEAL RIGHTS: Respondent may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at courts.michigan.gov. The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available but assistance may be available through the State Bar of Michigan at <https://lrs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR:

- by email to MOAHR-BSD-Support@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
Michigan Office of Administrative Hearings and Rules

Via Electronic Mail:

Petitioner

OFFICE OF INSPECTOR GENERAL (OIG)
PO BOX 30062
LANSING, MI 48909-7562
MDHHS-OIG-HEARINGS@MICHIGAN.GOV

Rehearing/Reconsideration Request
P.O. Box 30639
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.

Via First Class Mail:

Respondent

[REDACTED]

25-002541