Michigan Office of Administrative Hearings and Rules
P.O. Box 30639
Lansing, MI 48909

Date Mailed: August [redacted], 2025
Docket No.: 25-013305
Case No.: [redacted]
Petitioner: OFFICE OF INSPECTOR GENERAL (OIG)

[redacted]

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

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

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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) concerning state benefits. 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 July 31, 2025. Justin Motley, Regulation Agent with 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

1. Did MDHHS establish, by clear and convincing evidence, that Respondent committed an Intentional Program Violation (IPV) of the Food Assistance Program (FAP)?

2. Should Respondent be disqualified from receiving FAP benefits?

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 May 7, 2021, Respondent applied for FAP benefits for a group size of four, consisting of her living together partner, [redacted], two minor children, and herself. Respondent reported that the household had no income. Prior to submission of the application, Respondent was required to review rights and responsibilities for properly reporting changes in household circumstances to MDHHS timely (Exhibit A, pp. 8-14).

2. On May 14, 2021, MDHHS issued a Notice of Case Action to Respondent, informing her that she was eligible for FAP benefits for a group size of four, including LTP, based upon [redacted] earned income, and reminding her of the obligation to report changes in household circumstances to MDHHS within ten

days. A blank Change Report form was provided with the Notice of Case Action to facilitate the reporting of any future changes to MDHHS timely (Exhibit A, pp. 15-23).

3. From June 1, 2021 through July 29, 2022, Respondent worked for [redacted] (Employer) (Exhibit A, pp. 30-32).

4. From September 30, 2021 through December 29, 2021, LTP worked for [redacted] (LTP Employer) (Exhibit A, pp. 24-25).

5. From February 28, 2022 through July 29, 2022, LTP worked for Employer (Exhibit A, pp. 28-29).

6. From January 1, 2022 through May 31, 2022, Respondent received [redacted] in FAP benefits (Exhibit A, pp. 42-43).

7. Respondent does not have an apparent physical or mental impairment that would limit the understanding or ability to accurately report household circumstances.

8. Respondent has no prior FAP IPV disqualifications.

9. On April 14, 2025, MDHHS' OIG filed a hearing request alleging that Respondent intentionally failed to report household earned income from employment and as a result received FAP benefits from January 1, 2022 through May 31, 2022 (fraud period) that Respondent was ineligible to receive. OIG requested that Respondent be disqualified from receiving FAP benefits for a period of 12 months due to committing an IPV. OIG stated that the FAP overpayment amount, which exceeded $500, was previously established and is not at issue in this case.

10. A notice of hearing was mailed to Respondent at the last known address and was not returned by the United States Postal Services 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 (IPV):

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 IPV involves FAP trafficking, or the alleged fraud is committed by a state government employee. BAM 720 (October 2017), pp. 12-13.

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 understand or fulfill these reporting responsibilities. BAM 720, p. 1.

In this case, MDHHS alleges that Respondent committed a FAP IPV because she failed to report employment income to MDHHS. Earned income received by the client is considered in the calculation of a client's FAP eligibility and amount of benefits. BEM 500 (July 2020); BEM 556 (October 2021), pp. 2-3; 7 CFR 273.9(a). FAP recipients who are not simplified reporters are required to report starting or stopping employment and changes in circumstance that potentially affect eligibility or benefit amount within ten days of receiving the first payment reflecting the change. BAM 105 (October 2021), p. 12; 7 CFR 273.10(b)(1)(i). MDHHS then has ten days to process the change and, if it results in a decrease in benefits, it gives the client 12 days before the negative action impacts the benefits issued. BAM 220 (November 2021) pp. 7, 12.

Here, Respondent applied for FAP on May 7, 2021 for LTP, herself, and their children. Prior to submission of the application, Respondent was required to review rights and responsibilities for properly reporting changes in household circumstances to timely report changes to MDHHS. From June 1, 2021 through July 29, 2022, Respondent worked for Employer. From September 30, 2021 through December 29, 2021, LTP worked for LTP Employer. From February 28, 2022 through July 29, 2022, LTP worked

for Employer. Respondent did not report this employment income to MDHHS during the fraud period. Respondent reported the household income late to MDHHS.

While Respondent should have timely reported this employment income, she did not misreport any information to MDHHS. Meaning, there was no written submission to MDHHS during the alleged fraud period in which Respondent failed to provide truthful information. A written misreporting of information is highly persuasive evidence of an intent to defraud consistent with an IPV. MDHHS did not present evidence of a written misreporting by Respondent. MDHHS also did not present evidence that they issued any correspondence to Respondent during the alleged fraud period that would have reminded her of the requirement to report income to MDHHS. MDHHS has failed to establish that Respondent intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility once she and LTP began to receive earned income. To find Respondent committed an IPV, the requisite intent that she failed to report in order to fraudulently obtain benefits must be clearly and convincingly proven by MDHHS. When evaluating an individual's intent to defraud, it is essential to consider their state of mind at the time of committing the action in question. In considering the evidence presented, MDHHS failed to establish an intent to defraud by clear and convincing evidence. Thus, MDHHS did not establish an IPV by Respondent.

Therefore, MDHHS has **not** 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 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 entitled to receive, MDHHS must attempt to recoup the OP as a recipient claim. 7 CFR 273.18(a)(2); BAM 700 (October 2018), p. 1. The FAP OP amount was previously established by MDHHS and not an issue in this case.

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 not established by clear and convincing evidence that Respondent committed an IPV.

2. Respondent is not subject to a 12-month disqualification from FAP.

IT IS ORDERED that Respondent is not disqualified from FAP.

DANIELLE NUCCIO
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
  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 Electronic Mail:

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MDHHS-OIG-HEARINGS@MICHIGAN.GOV

Via First Class Mail:

Respondent
[redacted]