



Date Mailed: August [REDACTED] 2025
Docket No.: 25-016629
Case No.: [REDACTED]
Petitioner: OFFICE OF INSPECTOR
GENERAL (OIG)

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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 August 14, 2025. James Disser, 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 IPV concerning Food Assistance Program (FAP) benefits?
2. Should Respondent be disqualified from receiving benefits for FAP?
3. Did Respondent receive an overpayment (OP) 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 September 17, 2024, Respondent applied for FAP benefits for herself. Prior to submission of the application, Respondent must review rights and responsibilities as a benefit recipient (Exhibit A, pp. 17-32).
2. On January 16, 2025, Respondent was incarcerated in the [REDACTED]. Respondent was transferred to the Michigan Department of Corrections, with an earliest release date of September 10, 2026 (Exhibit A, pp. 8-11).

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3. On April 10, 2025, Respondent mailed a letter to MDHHS to report unauthorized use of her FAP benefits while she is incarcerated in the [REDACTED] (Exhibit A, p. 7).
 4. From March 1, 2025 through April 30, 2025, Respondent was issued [REDACTED] in FAP benefits for a one-person group (Exhibit A, p. 14).
 5. Respondent does not have an apparent physical or mental impairment that would limit the understanding or ability to accurately report being incarcerated.
 6. Respondent has no prior FAP IPV disqualifications.
 7. On May 7, 2025, MDHHS' OIG filed a hearing request alleging that Respondent intentionally failed to report her incarceration and as a result received FAP benefits from March 1, 2025, through April 30, 2025 (fraud period) that Respondent was ineligible to receive. OIG requested that Respondent repay [REDACTED] to MDHHS for FAP benefits that Respondent was ineligible to receive and that Respondent be disqualified from receiving FAP benefits for a period of 12 months due to committing an IPV.
 8. 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

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 an IPV based on her failure to timely report that she was incarcerated, leading to an overpayment in benefits. A person in a federal, state or local correctional facility for more than 30 days is not eligible to receive FAP benefits. BAM 804 (March 2021) p. 1. Here, Respondent’s incarceration period was longer than 30 days; therefore, during this incarceration period she was not eligible to receive FAP benefits.

The analysis then turns to whether Respondent failed to report her incarceration to MDHHS in order to fraudulently maintain benefits. MDHHS alleges that Respondent should have been aware of her responsibility to report changes in household circumstances, including incarceration, within 10 days. However, MDHHS has not presented evidence that Respondent purposefully ignored her reporting responsibilities while incarcerated. No evidence was presented regarding the accessibility Respondent had to report her incarceration during that time, including whether Respondent had phone privileges or access to contact information for MDHHS to timely report her incarceration. While Respondent eventually reported her incarceration to MDHHS, reporting upon immediate incarceration is unlikely to be a priority for an incoming inmate. MDHHS did not allege another basis for an IPV, including unauthorized use of FAP benefits, and only argued that Respondent failed to timely report her incarceration in order to fraudulently maintain FAP benefits. Clearly Respondent failed to report being incarcerated timely but absent a showing of the requisite intent to fraudulently obtain benefits, 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 period of disqualification from FAP.

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), 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.

In this case, Respondent was not eligible to receive FAP benefits while incarcerated per policy. As Respondent was the only member of her FAP group, all benefits issued to her during the fraud period were overpaid. Since Respondent was issued [REDACTED] in FAP benefits during her incarceration, MDHHS is entitled to recoup [REDACTED] in overpaid 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 **not** established by clear and convincing evidence that Respondent committed an IPV.
2. Respondent is **not** subject to a 12-month disqualification from FAP benefits.
3. Respondent did receive an OP of FAP benefits in the amount of [REDACTED].

IT IS ORDERED that Respondent is **not** subject to a period of disqualification from FAP.

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



DANIELLE NUCCIO
ADMINISTRATIVE LAW JUDGE

25-016629

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, **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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Via First Class Mail:

Respondent

[REDACTED]