STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: █████████████   Reg No: 2010-12958
                                    Issue No: 2006, 3009,
                                               4003
                    Claimant,   Case No: ███████
                                    Load No: ████████
                                    Hearing Date:
                                    February 4, 2010
                                    Mecosta County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was conducted from ████████████ on February 4, 2010.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance Program (FAP), State Disability Assistance (SDA) and Medical Assistance (MA) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

(1)   Claimant received FAP, SDA and MA benefits through ███████████ .

(2)   Claimant's case was transferred to ████████████ and his FAP benefits were terminated for an unknown reason.

(3)   Claimant re-applied for FAP, SDA and MA benefits in ████████████ (he was still receiving SDA and MA benefits at the time). (Exhibit 9)

(4)   The Department entered into the system that Claimant had an outstanding felony warrant which resulted in a denial of his FAP application and his SDA and MA benefits were also cancelled.

(5)   On November 17, 2009, the Department mailed Claimant a Notice of Case Action which 1) Closed Claimant's Cash (State Disability Assistance) because he failed to verify or allow the department to verify information necessary to determine eligibility for this program, 2) Continued Claimant's MA-Ad Care and 3) Denied Claimant's FAP because he or a group member is in violation of the conditions of probation or parole. (Exhibit 1)

(6)   On November 20, 2009, the Department mailed Claimant a Notice of Case Action which closed Claimant's MA-Ad Care because the he does not meet program requirements. (Exhibit 2)

(7)   On December 2, 2009, the Department received the Claimant's hearing requests in regard to the November 17, 2009 and November 20, 2009 Notice of Case Action(s). (Exhibits 7,8)

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program, is established by the Food Stamp Act of 1977, as amended, and is implemented

by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department), administers the FAP program pursuant to MCL 400.10, *et seq.,* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

In the instant case, the Department provided the undersigned with a Notice of Hearing, a Hearing Summary and Claimant's Hearing Request at the time of hearing. The Hearing Summary states "Date client notified of department action" was 12-4-09 and the "Actions prompting Hearing Request" as closure of SDA; FAP; MA-Ad Care. Claimant's Hearing Request, however, was in regard to a 11/20/09 Notice of Case Action.

The undersigned requested that the Department fax over the 11/20/09 Notice of Case Action and any documents that supported the Department's action in this case. The Department faxed over 11/17/09 and 11/20/09 Notice of Case Action(s). The Department provided a 2/23/09 Social Security Administration letter that states " ███████████ has not been eligible for SSI since 05/2008. His ineligibility is due to an outstanding felony warrant" and a District Case Inquiry which appears to show that Claimant pled guilty to a felony in ███████ which resulted in a suspended jail sentence and/or probation with conditions.

The Department's position is that Claimant's file was "pretty messed up" when it received it from ███████████ and it was trying to straighten it out. The real issue was that Claimant needed to provide proof that he no longer had an outstanding felony warrant and he did not do so. This made him ineligible for FAP and SDA. The

Department received no information from the previous county as to why Claimant was

eligible for MA benefits and so it requested information in this regard. The Department

could only say that Claimant did not produce the requested information as the closing of

the MA case had nothing to do with the outstanding felony warrant. Claimant's position

was that he was receiving all these benefits without issue until he transferred to █████

██████ and he contacted the prosecutor's office in ██████ and attempted to clear up the

issue, but had not yet been able to do so.

People convicted of certain crimes, fugitive felons and probation or parole

violators are not eligible for FIP, SDA or FAP assistance. A fugitive felon is a person

who:

• Is subject to arrest under an outstanding warrant arising from a felony

charge against that person (this includes persons charged

with felony welfare fraud who fail to appear in court).

• Is subject to arrest under an outstanding warrant for extradition

arising from a criminal charge against that person in another jurisdiction.

• Admits to being a fugitive felon.

A person who is violating a condition of probation or parole imposed

under a federal or state law is disqualified. The person is disqualified as long as he is

violating probation or parole. BEM 203, p.1-2

Clients must cooperate with the local office in determining initial and ongoing

eligibility. This includes the completion of necessary forms. BAM 105, p. 5 Verification

means documentation or other evidence to establish the accuracy of the client's verbal or

written statements. BAM 130, p.1 Verification is usually required at

application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as local office option or information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p.1 The Department uses documents, collateral contacts or home calls to verify information. BAM 130, p.1 A collateral contact is a direct contact with a person, organization or agency to verify information from the client. BAM 130, p. 2 When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130, p. 2

Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, p. 4 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended at least once. BAM 130, p. 4 Verifications are considered timely if received by the date they are due. BAM 130, p. 4 A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 4 For MA only, the Department should extend the time limit up to three times and the negative action notice should be sent when the client indicates a refusal to provide the verification or the time period given has elapsed. BAM 130, p. 5

Clients are allowed a reasonable opportunity to resolve any discrepancy between statements and information obtained through another source. BAM 130, p. 6 Disagreements and misunderstandings should be resolved at the lowest possible level to avoid unnecessary hearings. BAM 600, p. 11

With the above said, based on the testimony and documentation offered at hearing, I do not find that the Department established that it acted in accordance with

policy in computing Claimant's FAP, SDA and MA eligibility. Claimant was receiving FAP, SDA and MA benefits without issue. He transfers to another county and he is not eligible for any of these benefits because the Department believes him to have an outstanding felony warrant and/or it does not possess the information necessary to establish eligibility for the benefits he was receiving. Claimant may or may not have an outstanding felony warrant, may or may not have violated his parole/probation and may or may not have been properly receiving the benefits he was previously receiving based on the testimony and documentation that I heard and reviewed, but department policy dictates that he at least have an opportunity to clear up the disputed issue. I do not find that the Department established that claimant was afforded that opportunity in this case. The best the Department could do was say that we probably asked for information and probably did not get it and that is simply not enough.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in computing Claimant's FAP, SDA and MA eligibility.

Accordingly, the Department's FAP, SDA and MA eligibility determination(s) are REVERSED, it is SO ORDERED. The Department shall:

(1)   Request any information necessary from Claimant to determine whether he is eligible for FAP, SDA and MA benefits and process the application(s) effective October 22, 2009, the original application date.

(2)   Issue Claimant supplemental benefits he is entitled to, if any.

(3)   Notify Claimant in writing of the Department's revised determination(s).

(4)   Claimant retains the right to request a hearing if he would like to contest the Department's revised determination(s).

                                        /s/_____
                                        Steven M. Brown
                                        Administrative Law Judge
                                        for Ismael Ahmed, Director
                                        Department of Human Services

Date Signed: February 11, 2010

Date Mailed: February 11, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order.   Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

SMB/db

cc: