

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2010-40463
Issue No: 3009; 4003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 24, 2010
Iosco County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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, an in-person hearing was held on August 24, 2010.

ISSUE

Did the DHS properly propose to close claimant's FAP and SDA cases on the grounds that claimant is a fugitive felon?

FINDINGS OF FACT

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

- (1) At all relevant times prior to the proposed negative action herein, claimant was a recipient of the FAP and SDA welfare programs under the Administration of the Michigan DHS.
- (2) On May 7, 2010 the DHS received information from the SSI advocate that claimant was in fugitive filing status. (Exhibit #1.)

(3) May 19, 2010 a DHS-3503 was mailed to claimant, requesting verification to give claimant an opportunity to show that he was not in fact in a fugitive felon status. (Exhibit #2.)

(4) On June 4, 2010, claimant filed a response to the inquiry which admits fugitive felon status in the [REDACTED]. (Exhibit #3.)

(5) On June 8, 2010, the DHS issued a proposed closure.

(6) On June 21, 2010, claimant filed a hearing request.

(7) The department reinstated the action pending the outcome of the hearing.

Claimant continues to receive benefits.

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. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Fugitive felon status is addressed under Michigan DHS policy and procedure in BEM Item 203--Criminal Justice Disqualification. This item states in part:

FUGITIVE FELONS

FIP, SDA, AND FAP

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.

Answer Yes to the appropriate fugitive felon questions(s) in Bridges if client admits they are a fugitive felon, or you receive information and a written statement from a law enforcement officer, prosecuting attorney or OIG that:

- The person is a fugitive felon, and
- Locating or apprehending the person is within the officer's official duties.

Bridges will disqualify the individual for this reason as long as he or she is subject to arrest under an outstanding warrant. BEM Item 203, p. 1 and 2.

In this case, the department policy requires the DHS to close and deny benefits in SDA and FAP cases where an individual meets the fugitive felon definition. Among the definitional requirements is that where there is an outstanding arrest warrant, including outstanding warrants from another jurisdiction, and where an individual admits to being a fugitive felon.

In this case, claimant admits that he is a fugitive felon but disputes why he should be one. While claimant may dispute that, the DHS and this Administrative Law Judge have no knowledge, information, or authority to change the fugitive felon status of an individual in the [REDACTED]. The purview of this Administrative Law Judge is to review the department's

actions and to make a determination if they are correct. The DHS actions were required under DHS policy and procedure. Thus, the department's proposed actions must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's proposed actions were correct.

Accordingly, the department's proposed closure is UPHELD.

/s/ _____
Janice G. Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 27, 2010

Date Mailed: August 30, 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.

JGS/tg

cc:

