

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013 23117
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: February 21, 2013
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 21, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] ES, [REDACTED] Assistance Payments Supervisor, and [REDACTED] Program Manager.

ISSUE

Did the Department properly close the Claimant's Food Assistance Case due to Claimant having a fugitive Felony warrant?

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 12/31/2013 the Department closed the Claimant's FAP case effective 2/1/13 due to a criminal justice disqualification. The Notice of Case Action advised the Claimant to contact her local law enforcement agency to resolve.
2. At the Hearing the Claimant presented a warrant cancellation due to a 1990 charge of possession of marijuana. The Warrant was cancelled 9/24/12 by order of the 36th District Court, Claimant Exhibit 1.

3. The Department did not present evidence of the existence of a felony warrant for the Claimant's arrest or that Claimant was a fugitive or convicted or FAP trafficking.
4. The Claimant requested a hearing protesting the closure of her food Assistance case on January 10, 2013.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, the Department presented no evidence of the existence of a felony warrant for the Claimant or that the Claimant was a felony fugitive. The Claimant provided evidence at the hearing that a prior warrant issued in 1990 for possession of marijuana was dismissed 9/12/12 by a judge of the 36th District Court.

BEM 203 provides:

People convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for assistance.

DRUG-RELATED FELONY FIP and FAP

1st Offense

A person who has been convicted of a felony for the use, possession, or distribution of controlled substances is disqualified if:

Terms of probation or parole are violated, and

The qualifying conviction occurred after August 22, 1996.

If an individual is not in violation of the terms of probation or parole, FIP benefits must be paid in the form of restricted payments and FAP benefits must be issued to an authorized representative. Department of Human Services Bridges Eligibility Manual (BEM) 203 pp 2, (10-1-12)

In this case the Claimant presented un rebutted evidence that an outstanding warrant for controlled substance was dismissed effective 9/12/12. Claimant Exhibit 1. The Department presented no further evidence to demonstrate a basis for its action to support that the Claimant was otherwise disqualified due to a criminal justice disqualification and thus did not meet its burden of proof to demonstrate that its action closing the Claimant's FAP case was correct.

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, finds that the Department


did act properly when

did not act properly when it closed the Claimant's FAP case due to a criminal justice disqualification.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall initiate reinstatement of the Claimant's FAP case effective 2/1/12 and shall issue a FAP supplement to the Claimant for FAP benefits, if any, the Claimant was otherwise entitled to receive in accordance with Department Policy


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 27, 2013

Date Mailed: February 27, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearings

Reconsideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

LMF/cl

cc:

