

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

**IN THE MATTER OF:**



Reg. No.: 201325204  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: February 22, 2013  
County: Oakland DHS (02)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 22, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUES**

The first issue is whether Claimant is entitled to request an administrative hearing to dispute the order of a previous administrative decision.

The second issue is whether DHS properly denied Claimant's Family Independence Program (FIP) benefit application.

The third issue is whether DHS imposed an employment disqualification against Claimant for a six month period.

**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 was an ongoing Food Assistance Program (FAP) and FIP benefit recipient.
2. On an unspecified date, DHS imposed an employment disqualification against Claimant for the months of 12/2012-2/2013.

3. On an unspecified date, DHS terminated Claimant's FIP benefit eligibility and reduced Claimant's FAP benefit eligibility because of the employment disqualification.
4. On an unspecified date, Claimant requested a hearing to dispute the employment disqualification.
5. An administrative hearing was held on 11/12/12 concerning whether DHS properly imposed an employment-disqualification against Claimant.
6. The subsequent administrative decision affirmed the imposition of a three month employment disqualification against Claimant.
7. On an unspecified subsequent date, Claimant applied for FIP benefits.
8. On 1/11/13, DHS denied Claimant's FIP benefit application due to a six month employment disqualification.
9. On 1/18/13, Claimant requested a hearing to dispute the FIP benefit application denial, the previously adjudicated employment disqualification and the length of the employment disqualification.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found 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, 8 USC 601, *et seq.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

It was not disputed that Claimant previously requested a hearing to dispute a FIP benefit termination and FAP benefit reduction. An administrative hearing was held on 11/12/12. It was not disputed that the corresponding administrative decision affirmed that DHS properly imposed an employment-activity disqualification resulting in a termination of FIP benefits and reduction of FAP benefits. On 1/18/13, Claimant requested a second hearing concerning the exact same issue.

DHS regulations list what issues are appropriate for administrative hearing. The Michigan Administrative Hearings System (MAHS) may grant a hearing about any of the following):

- denial of an application and/or supplemental payments;
- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service;
- restrictions under which benefits or services are provided;
- delay of any action beyond standards of promptness; or
- for the current level of benefits or denial of expedited service (Food benefits only).

(BAM 600 (8/2012), p. 3)

An implicit requirement for requesting a hearing is that the issue was not previously decided by administrative hearing. Without this requirement, clients dissatisfied with a hearing decision could endlessly request hearings until they receive a favorable decision. Common law is littered with decisions barring the reopening of an already decided issue; this concept is called *res judicata*. *Res judicata* does not prevent a dissatisfied client from pursuing the appellate process.

A rehearing is a full hearing which is granted when the original hearing record is inadequate for purposes of judicial review, or there is newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision. *Id.*, p. 33. Claimant contended that he has proof that his last administrative hearing included factual misstatements. Claimant testified that he is awaiting a response to his request for rehearing. The rehearing, not a second administrative hearing, is Claimant's proper recourse. It is found that Claimant is barred by *res judicata* from pursuing an administrative hearing whether DHS properly imposed an employment-related disqualification for the months of 12/2012-2/2013.

Claimant's hearing request was tied to a DHS action on 1/11/12. Evidence established that DHS denied a FIP application made by Claimant. The date of application was not specified, but it was not disputed to have been submitted to DHS during 12/2012-2/2013. Claimant was disqualified from receiving FIP benefits on the date of his application, due to an employment-related disqualification.

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A (5/2012), p. 1. Depending on the case situation, penalties include the following: delay in eligibility at application, ineligibility (denial or termination of FIP with no minimum penalty period), case closure for a minimum period depending on the number of previous non-compliance penalties. *Id.* The above policy confirms that DHS properly denied Claimant's FIP benefit application due to an employment disqualification.

There was also a dispute concerning the length of Claimant's employment disqualification. It was not disputed that the employment disqualification should have

lasted three months, from 12/2012-2/2013. It was also not disputed that DHS improperly imposed a six month penalty against Claimant. DHS presented testimony that they were aware of the problem and are trying to correct it. Claimant is entitled to the reduced disqualification period of three months.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant is not entitled to an administrative hearing disputing an employment disqualification for the period of 12/2012-2/2013 due to res judicata. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's FIP benefit application tied to a Notice of Case Action dated 1/11/13. The actions taken by DHS are **PARTIALLY AFFIRMED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly imposed a six month disqualification against Claimant. It is ordered that DHS correct Claimant's disqualification period to cover the months of 12/2012, 1/2013 and 2/2013. The actions taken by DHS are **PARTIALLY REVERSED**.



Christian Gardocki  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 2/28/2013

Date Mailed: 2/28/2013

**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

CG/hw

cc:

