

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

IN THE MATTER OF:



Reg. No.: 201325971
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: March 6, 2013
County: Wayne (Dist #19)

ADMINISTRATIVE LAW JUDGE: Michelle Howie

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 conducted from Detroit, Michigan on Wednesday March 6, 2013. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included [REDACTED] (APW), [REDACTED] (APS) and [REDACTED] (Program Manager).

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case based on a criminal disqualification?

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 recipient of FAP benefits.
2. On January 14, 2013, the Department sent Claimant a Notice of Case Action, advising him that his FAP case would close effective February 1, 2013 due to a criminal justice disqualification. (Exhibit 4)
3. On January 25, 2013 Claimant filed a hearing request to dispute the Department's action.

CONCLUSIONS OF LAW

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

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 1999 AC, R 400.3001 through Rule 400.3015.

The Department's policy provides that people convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for assistance. BEM 203 (October 2012), p. 1. A fugitive felon is defined in BEM 203 as 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 or; admits to being a fugitive felon. The Michigan State Police (MSP) identifies clients who are currently fugitive felons on a monthly basis and on a daily basis identifies when clients are no longer fugitive felons. BAM 811 (February 1, 2013), p.1. When a client data match is identified based on the name, date of birth, social security number and gender on the Department's Bridges system, the system automatically generates a Notice of Case Action informing the client that their benefit case will close due to a criminal justice disqualification showing and instructs them to go to the local law enforcement agency to resolve the issue. BAM 811, p. 1. If it is found that the fugitive felon match is not accurate the Department will correct the fugitive felon status in the Bridges system. BAM 811, p. 2.

In this case, according to the Department, the Bridges system interface data match identified that Claimant was subject to a criminal justice disqualification. The Department representatives at hearing had no knowledge of the reason for the alleged criminal justice disqualification. The Department sent a letter to the Michigan Office of Inspector General (OIG) the morning of hearing requesting proof of the reason for Claimant's alleged criminal justice disqualification. However, as of the hearing time the Department had not received any response from the OIG. Claimant testified that he was not aware of any outstanding criminal justice issues. He went to the Inkster Police Department to resolve the matter, but was told by the Inkster Police Department that they were not aware of any outstanding criminal matters involving him. He was advised to contact the Michigan State Police.

The Department has the initial burden of establishing that Claimant was subject to the criminal justice disqualification and the action taken on the case was proper. Once the Department introduced evidence showing that the automated system data match identified the Claimant as subject to the disqualification, the evidence creates a

rebuttable presumption that the disqualification is accurate. The burden then shifts to the Claimant to present evidence to rebut that presumption. Claimant did not present any substantial competent evidence such as a police clearance, or otherwise, to show that the criminal justice disqualification was not accurate. His testimony that he is not aware of any outstanding criminal matters is insufficient alone to rebut the presumption.

Accordingly, under these facts, the Department acted in accordance with Department policy when it closed Claimant's FAP case based on the criminal justice disqualification.

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 it closed Claimant's FAP case effective February 1, 2013 .

Accordingly, the Department's FAP decision is hereby, **AFFIRMED**.

/s/ _____
Michelle Howie
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 3/8/2013

Date Mailed: 3/8/2013

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

MH/hw

cc:

