

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

IN THE MATTER OF:



Reg. No.: 201327509
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: March 11, 2013
County: Wayne (#49)

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 on Monday March 11, 2013 from Detroit, Michigan. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) was [REDACTED] (Eligibility Specialist "ES").

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. In December 2012, the Department sent Claimant Notice of Case Action advising that her FAP case would close effective January 1, 2013 due to a criminal justice disqualification.
3. On January 9, 2013 Claimant filed a hearing request disputing the Department's action.

4. Claimant contacted the 36th District Court of Michigan. She received a Dismissal Order dated February 13, 2013 dismissing an outstanding criminal matter from 1987 that she submitted to the Department at the hearing. (Exhibit A)

CONCLUSIONS OF LAW

The Department of Human Services policies are contained in the 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 Mich Admin Code, R 400.3001 through R 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 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 the Bridges system interface data match identified that Claimant was subject to a criminal justice disqualification. The Department representative at hearing had no knowledge of the reason for the alleged criminal justice disqualification. Claimant testified that she contacted the 36th District court in an attempt to resolve the matter and learned that she had an old 1987 criminal case outstanding that was not resolved. She was able to get a hearing before a Judge where the matter was dismissed on February 13, 2013. She further testified that she has a more recent criminal case that she is currently on probation for and has no violations of which she is

aware. The Department is not sure whether the case addressed by the Dismissal Order dated February 13, 2013 is the same matter that resulted in the criminal disqualification. As a result, Claimant was instructed to obtain a police clearance from the Detroit Police Department that would show whether she has any other outstanding criminal matters.

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 introduces evidence showing that the automated system data match identified the Claimant as subject to the criminal justice 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. Here, Claimant learned that she had an old unresolved criminal matter from 1987, which was not dismissed until February 13, 2013. Whether that particular criminal matter resolved the criminal disqualification is unclear on this record. Notably, the old criminal matter was not resolved until after the case action had already occurred on January 1, 2013.

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. Claimant may re-apply for FAP benefits at anytime and provide the Department with any police clearances or court records to show that she is no longer subject to a 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 January 1, 2013 based on the criminal justice disqualification.

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: 3/13/2013

Date Mailed: 3/13/2013

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:

