

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-30177
Issue No: 3008
Case No: [REDACTED]
Hearing Date: March 19, 2013
Oakland-03 County DHS

ADMINISTRATIVE LAW JUDGE: COREY A. ARENDT

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 March 19, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department properly closed the Claimant's Food Assistance Program (FAP) benefits due to a criminal justice disqualification?

FINDINGS OF FACT

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

1. As of January 14, 2013, the Claimant was receiving FAP benefits.
2. On January 14, 2013, the Department sent the Claimant a notice of case action. The notice indicated the Claimant's FAP benefits were being closed effective February 1, 2013 due to a criminal justice disqualification.
3. On February 11, 2013, the Claimant requested a hearing.

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 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 regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

People convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for assistance. (BEM 203).

However, in this matter, the Department did not present any evidence to indicate the Claimant met one of the disqualification criteria listed in BEM 203. The Department witness testified that as of March 13, 2013, the Claimant had a felony warrant for his arrest. However, this testimony does not cover the time period in which the Department took the action to close the Claimant's FAP case.

Furthermore, the Department attempted to use the Claimant's register of actions (Claimant Exhibit 1) against the Claimant. The Claimant testified he went to the local courthouse and then police station to acquire the documentation to show he did not have a felony warrant for his arrest. For one, the document does not indicate the Claimant has an open warrant for his arrest and two, I find it very unlikely the Claimant made it out of the police station without being arrested if he did have an open felony warrant.

Because the Department failed to provide any evidence of the Claimant meeting one of the disqualification criteria, I am reversing the Department in this matter.

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Department did not act properly.

Accordingly, the Department's FAP decision is **REVERSED**.

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

1. Initiate a redetermination as to the Claimant's eligibility for FAP benefits beginning February 1, 2013 and issue retroactive benefits if otherwise eligible and qualified.



Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 20, 2013

Date Mailed: March 20, 2013

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 mailing 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

2013-30177/CAA

CAA/las

cc:

