

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

IN THE MATTER OF:



Reg. No.: 201331545
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: May 9, 2013
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 May 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case based on a criminal justice 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 December 31, 2012, the Department sent Claimant a Notice of Case Action advising her that her FAP case would close effective February 1, 2013, due to a criminal justice disqualification.
3. On February 20, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

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

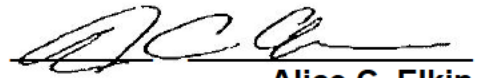
People convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for assistance. BEM 203 (October 1, 2012), p 1. The Department matches benefit recipient data with the Michigan State Police (MSP), which identifies on a monthly basis clients who are currently fugitive felons and on a daily basis clients who are no longer fugitive felons. BAM 811 (February 1, 2013), p 1; see also MCL 400.10c. The Department testified that this match is based on Claimant's name, social security number and birthdate. When a match appears on the Department's system, the Department is required to send the client a Notice of Case Action informing the client that they have a criminal justice disqualification showing and to go to a local law enforcement agency to resolve the issue. BAM 811, p 1.

In this case, the Department testified that a data match with the MSP identified that Claimant was subject to a criminal justice disqualification. As a result, the Department sent Claimant a Notice of Case Action on December 31, 2012, informing her that her FAP case would close effective February 1, 2013 because she was subject to a criminal justice disqualification and advising her to contact his local law enforcement agency to resolve this issue. At the hearing, the Department presented a March 21, 2013 letter from the Michigan Office of Inspector General (OIG) indicating that Claimant continued to be subject to the disqualification as of March 21, 2013. Claimant had the opportunity to review the letter. The letter stated that Claimant was subject to an arrest under an outstanding warrant issued by the office of the [REDACTED] arising out of a felony charge. At the hearing, Claimant testified that she had been the victim of identity theft in the past. However, she admitted that she had not contacted any law enforcement agency in response to the Notice of Case Action. 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 was advised to contact the Oakland County Sheriff department and that she reapply for FAP benefits once the criminal justice disqualification matter was resolved.

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 acted in accordance with Department policy when it closed Claimant's FAP case based on the criminal justice disqualification. Accordingly, the Department's decision is AFFIRMED.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/16/2013

Date Mailed: 5/16/2013

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

ACE/hw

cc:



