

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-42546
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: May 22, 2013
County: Wayne (82-55)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 22, 2013, from Detroit, Michigan. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department act in accordance with Department policy when it closed 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 April 5, 2013, the Department sent Claimant a Notice of Case Action advising him that his FAP case would be closing effective May 1, 2013, due to a criminal justice disqualification. Exhibit 4.
3. On April 16, 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), 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.

Additionally, people convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for assistance. BEM 203 (May 2013), p. 1. BEM 203 defines a fugitive felon as someone 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. BEM 203, p. 1. Bridges will disqualify the individual as a fugitive felon as long as he or she is subject to arrest under an outstanding warrant. BEM 203, p. 2.

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 (May 2013), p. 1; see also MCL 400.10c. This automated process identifies an exact match based on first name, last name, date of birth, social security number and gender. The monthly match will set to close any client identified as a fugitive felon. BAM 811, p. 1. 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.

At the hearing, it was determined that a prior administrative hearing was held on March 12, 2013, and a decision was made by an Administrative Law Judge (ALJ). At the March 12, 2013, hearing, Claimant was disputing a January 2013 FAP case closure due to a criminal justice disqualification. The ALJ determined that the Department failed to provide any evidence of Claimant meeting one of the criminal justice disqualification criteria and reversed the Department. The Department was ordered to initiate redetermination of Claimant's eligibility for FAP benefits from January 2013 and issue supplements, if otherwise eligible.

At the May 22, 2013, hearing, the Department testified that it did redetermine Claimant's eligibility for FAP benefits and that Claimant was approved for FAP benefits in the amount of \$200.00 for the months of January 2013 and April 2013, but that he was not eligible for FAP benefits from February 1, 2013, through March 31, 2013. The Department provided an eligibility summary in support of this testimony. Exhibit 1.

On April 5, 2013, Claimant applied for Medical Assistance under the Adult Medical Program. The Department testified that this application triggered Bridges to place Claimant's FAP case in closure because Claimant was subject to a criminal justice disqualification. As a result, the Department sent Claimant a Notice of Case Action on April 5, 2013, informing him that his FAP case would close effective May 1, 2013, because he was subject to a criminal justice disqualification. Exhibit 4. BEM 203, p. 1; BAM 811, p. 1.

Claimant testified that he was not aware of any outstanding criminal justice issues and addressed concerns with respect to the Department repeatedly closing his FAP cases without any evidence of an outstanding warrant. Just as in the March 12, 2013, hearing, at the hearing held on May 22, 2013, the Department failed to provide any evidence of Claimant meeting one of the criminal justice disqualification criteria as of the date of hearing other than a Bridges Individual Demographics printout indicating that Claimant is a fugitive felon. Exhibit 3. Further, there was no letter presented from the Michigan Office of Inspector General (OIG) indicating that as of the hearing date Claimant continued to be an individual subject to an arrest on an outstanding felony warrant nor was there any evidence at all to support the Bridges print out that could verify Claimant's name, birth date, and social security number being the same as the one appearing under the data match.

Therefore, the Department has not satisfied its burden in establishing that Claimant was a fugitive felon and subject to a criminal justice disqualification, resulting in his ineligibility for FAP benefits. As such, the Department did not act in accordance with Department policy when it closed Claimant's FAP case effective May 1, 2013, based on 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 not in accordance with Department policy when it closed Claimant's FAP case based on a criminal justice disqualification. Accordingly, the Department's 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. Reinstate Claimant's FAP case as of May 1, 2013, ongoing;
2. Begin recalculating the FAP budget for May 1, 2013, ongoing in accordance with Department policy and consistent with this Hearing Decision;
3. Begin issuing supplements to Claimant for any FAP benefits that he was eligible to receive but did not from May 1, 2013, ongoing; and

4. Notify Claimant of its decision in writing in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 28, 2013

Date Mailed: May 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

ZB/pf

cc:

