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

### IN THE MATTER OF:



Reg. No: 201321588 Issue No: 3009

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

### **HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Cla imant's request for a hearing. After due notice, an inperson hearing was held on Cla imant's Authorized Hearings Representative, Department was represented by

### **ISSUE**

Did the Department properly close Claimant's Food A ssistance Program (FAP) benefits due to a felony warrant being issued against her?

## FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- 1. Claimant was a recipient of FAP and SDA benefits
- 2. Notice of case action was sent to Claimant on informing her that her case was close due to a criminal disqualification.
- 3. The Department presented a statem ent from OIG agent, stating that Claimant was subject to arrest under an outstanding warran t arising from a felony charge is sued by the
- 4. No further details regarding an alleged felony warrant were provided in the statement presented at hearing. The OIG agent was not p resent or available to testify at hearing.

- 5. Claimant requested a hearing on contesting the closure of FAP and SDA benefits.
- 6. The Department attached a printout of for ordinance misdemeanor criminal warrant in the hearings packet.
- 7. Claimant's advocated present documentation show ing that the warrant related to the District Court had been lifted pr ior to the hearing in this matter.

# CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amend ed, and is implemented by the federal regulations contained in Title 7 of the Code of Feder al Regulations (CFR). The Department (formerly known as the Fam ily Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

The State Disability A ssistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department polic ies are found in the Bridges Administra tive Manual (BAM), the Program Eligibility Manual (BEM) and the Bridges Reference Manual (PRM).

## FUGITIVE FELONS FIP, RAP, SDA, CDC and FAP

A fugitive felon is a person who:

- Is subject to arrest under an out standing warrant arising from a felony charge against that person (this includes persons charged wit h felony welfare fraud who fail to appear in court).
- Is subject to arrest under an outstanding warrant for extradition arising from a cr iminal c harge against that person in another jurisdiction.
- Admits to being a fugitive felon.

Document Bridges when the following apply:

- An individual self discloses as a fugitive felon.
- A DHS match identifies an individual as a fugitive felon.
- A written s tatement is obt ained from a law enforcement official, prosecuting attorney or OIG identifies an individual as a fugitive felon and locating or apprehending the individual is within the officer's official duties.

Bridges will disqualify the individual as a fugitive felon as long as he or she is subject to arrest under an outstanding warrant.

**Note:** Law enforcement officers are entitled to receive recipients' addresses if their official duties are apprehending persons wanted for a felony as long as a DHS matc h or a written statement is received. BEM 203.

In the present case, the Department failed to present adequate proof that Claimant had an outstanding felony warrant. The only thing the Department presented at hearing was a statement from an OIG agent checking a box that alleged t hat Claimant had an outstanding felony warrant issued by the No details about the alleged wa rrant were presented at hearing. The OIG agent was not present or available to testify at hearing. The underlying offense related to the warrant, the date of the warrant and t he court or the Judge whom i ssued the warrant was not stated. Claimant should be provided the details of the warrant so that she could contest and refute the assertion made by the Department. Without the underlying basis of the alleged warrant this Administrative Law J udge finds that the Department failed t 0 present adequate proof that Claimant has an outstanding felony warrant that would require closure of her case. BEM 203.

Claimant's Authorized Hearings Represen tative presented evidence at hearing that Claimant had outstanding warrants in other courts that were misdemeanor s. Those warrants had been lifted as of the date of hearing.

### DECISION AND ORDER

The Administrative Law Judge, based upon t he above findings of fact and conclusion s of law decides that the Department was incorrect in the cl osure of Claimant's FAP and SDA benefits and it is ORDERE D that the Department's decision in this regard be and is hereby **REVERSED**. Claimant's FAP and SDA benef its shall be reinst ated going back to the closure and the negat ive action shall be deleted. Any missed benefits shall be paid to Claimant in the form of a supplement.

Aaron Administrative for Department

Date Signed: 03/21/2013 Date Mailed: 03/21/2013

Am mile

McClintic Law Judge Maura Corrigan, Director of Human Services

**NOTICE**: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the receipt date of this Dec ision and Orde r. MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 ti mely 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 <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration <u>MAY</u> be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical e rror, 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

AM/kl

