

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201321747
Issue No: 3009
Case No: [REDACTED]
Hearing Date: February 6, 2013
DHS MI-CAP/SSPC

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on January 12, 2013. After due notice, a telephone hearing was held on February 6, 2013. Claimant appeared by three-way conference call and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's DHS MI-CAP/SSPC office.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

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

1. On December 31, 2012, the department mailed Claimant a Notice of Case Action (DHS-1605) advising him that, effective January 12, 2013, his FAP benefits would be closed for the reason that Claimant is not eligible for assistance due to a criminal justice disqualification. (Department Hearing Summary, Department Exhibit 5)
2. On January 8, 2013, Claimant submitted a hearing request protesting the Department's closure of his FAP benefits case. (Department Exhibit 2)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affective eligibility for 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 of that decision. BAM 600. 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)

The Food Assistance Program (FAP) was established pursuant to 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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy provides that people convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for assistance. BEM 203.

In this case, the Department's computer system, BRIDGES, interfaced with the Michigan State Police to determine that Claimant had an unresolved criminal justice violation, resulting in the Department's December 31, 2012 notification to Claimant that he had been disqualified from receiving FAP benefits effective January 12, 2013.

At the February 6, 2013 hearing, Claimant acknowledged that, at the time of the Department's closure of his FAP benefits, he had an unresolved ticket arising from an open alcohol citation issued in June 2012, for which he recently appeared in court (after the Department's closure of his FAP benefits) and obtained a dismissal of the ticket.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds, based on the competent, material, and substantial evidence presented during the hearing, the department properly determined that Claimant was not eligible for FAP benefits effective January 12, 2013 pursuant to BEM 203.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that Claimant was not eligible for FAP benefits effective January 12, 2013 pursuant to BEM 203. Accordingly, the department's actions in this regard are **UPHELD**.

IT IS SO ORDERED.

/s/_____

Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 6, 2013

Date Mailed: February 7, 2013

NOTICE: Michigan Administrative Hearings 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 Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc:

