

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201324750
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: February 26, 2013
County: Wayne (District #41)

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 February 26, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist, [REDACTED].

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

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 applied for benefits received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On January 26, 2013, the Department

denied Claimant's application closed Claimant's case
due to a criminal justice disqualification.

3. On January 14, 2013 the Department sent

Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.

4. On January 18, 2013, Claimant filed a hearing request, protesting the

denial of the application. closure of the case.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 1999 AC, R 400.3001 through Rule 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through Rule 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, R 400.5001 through Rule 400.5015.

Additionally, Bridges Eligibility Manual (BEM) 203 (2012) provides that a Claimant shall have a criminal justice disqualification under the circumstances discussed below.

- A person is disqualified for a period of 10 years if found guilty through the Administrative Hearing Process, convicted in court or by signing a repayment and disqualification agreement of having made a fraudulent statement or representation regarding his identity or residence in order to receive multiple FAP benefits simultaneously.
- A fugitive felon is a person who is subject to arrest under an outstanding warrant arising from a felony charge against that person, 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. A fugitive felon is disqualified as a fugitive felon as long as he or she is subject to arrest under an outstanding warrant.
- A person who is violating a condition of probation or parole imposed under a federal or state law is disqualified. The person is disqualified as long as the violation occurs.
- A person who has been convicted of a felony for the use, possession, or distribution of controlled substances is disqualified if:
 - Terms of probation or parole are violated and the qualifying conviction occurred after August 22, 1996.
 - A person convicted of a felony for the use, possession, or distribution of controlled substances two or more times in separate periods will be permanently disqualified if both offenses occurred after August 22, 1996.
- A person is disqualified from FAP when an administrative hearing decision, a repayment and disqualification agreement or court decision determines FAP benefits were trafficked as a result of:

1. Fraudulently using, transferring, altering, acquiring, or possessing coupons, authorization cards, or access devices; or
2. Redeeming or presenting for payment coupons known to be fraudulently obtained or transferred.

The length of the disqualification period depends on the dollar amount of the FAP benefits trafficked. A person is disqualified for life for a FAP trafficking conviction of \$500 or more. The standard IPV disqualification period is applied to FAP trafficking convictions less than \$500. See Disqualification in Bridges Assistance Manual (BAM) 720 (2013).

In this case, the Department testified that the disqualification was a result of an interface with the [REDACTED]. The Department could not say what the criminal justice disqualification was, but to reference that the Claimant mentioned having an outstanding [REDACTED]. The Claimant testified that he has had [REDACTED], but has never been convicted of any [REDACTED] that the policy references. [REDACTED] was asked if she knew of a [REDACTED] warrant and if so, what the [REDACTED] [REDACTED] against the [REDACTED] was and she testified that she did not know. As the Department can not say what the actual criminal disqualification is and as there is no evidence of an outstanding [REDACTED] for the Claimant, per BEM 203, p.1, the Administrative Law Judge finds that the evidence is insufficient to establish that the Claimant has a criminal justice disqualification.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

- | | |
|---|---|
| <input type="checkbox"/> properly denied Claimant's application | <input type="checkbox"/> improperly denied Claimant's application |
| <input type="checkbox"/> properly closed Claimant's case | <input checked="" type="checkbox"/> improperly closed Claimant's case |

for: AMP FIP FAP MA SDA CDC.

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 act properly. did not act properly when taking action to close Claimant's FAP case.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

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

1. Initiate action to reinstate the Claimant's FAP case back to the date of closure.
2. Issue the Claimant any supplement he may thereafter be due.

/s/
Susanne E. Harris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 3/18/13

Date Mailed: 3/22/13

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

SEH/db

cc:

