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

IN THE MATTER OF:

[redacted]

Reg. No.: 2013-57522
Issue No.: 3019
Case No.: [redacted]
Hearing Date: August 12, 2013
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Monday, August 12, 2013. Claimant appeared and testified. Participating on behalf of Department of Human Services ("Department") was [redacted], Family Independence Manager, and [redacted] Eligibility Specialist.

ISSUE

Whether the Department properly terminated Claimant's Food Assistance Program ("FAP") benefits effective June 1, 2013.

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FAP benefits.

2. On May 24, 2013, the Department sent a Notice of Case Action ("NOCA") to Claimant informing him that FAP benefits would close effective June 1, 2013 due to a criminal justice disqualification. (Exhibit 1)

3. On July 8, 2013, the Department received Claimant's timely written request for hearing protesting the closure of FAP benefits.

CONCLUSIONS OF LAW

Department policies are found in the 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 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. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq*., and Mich Admin Code, Rules 400.3001 through Rule 400.3015.

The Department routinely matches recipient data with other agencies through automated computer date exchanges. BAM 811 (May 2013), p. 1. The Michigan State Police ("MSP") identify clients who are currently fugitive felons on a monthly basis. BAM 811, p. 1. The MSP also identifies when the client is no longer a fugitive felon on a daily basis. BEM 811, p. 1. The automated process identifies an exact match based on first name, last name, date of birth, social security number, and gender. BAM 811, p. 1.

People convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for FAP benefits. BEM 203 (May 2013), p. 1. 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. BEM 203, p. 1. The Department's system (Bridges) is updated when an individual self discloses as a fugitive felon; a Department match identifies an individual as a fugitive felon; or a written statement from a law enforcement official, prosecuting attorney, or Office of Inspector General ("OIG") that identifies an individual as a fugitive felon and locating or apprehending the individual is within the officer's official duties. BEM 203, pp. 1, 2. An individual is disqualified as a fugitive felon as long as s/he is subject to arrest under an outstanding warrant. BEM 203, p. 2.

In this case, on May 24, 2013, the Department sent a NOCA to Claimant informing him that his FAP benefits would close effective June 1st based on a criminal justice disqualification. Claimant adamantly denied he had any legal trouble or outstanding warrants. The Department testified that Claimant was a fugitive felon but did not submit any evidence establishing this. Further, there was not a letter from the OIG confirming the existence of an outstanding felony warrant. In light of the foregoing, the Department failed to establish Claimant was in fact, a fugitive felon. As such, the Department's termination of FAP benefits is REVERSED.

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 failed to establish it acted in accordance with policy when it terminated Claimant's FAP benefits.

Accordingly, it is ORDERED:

1. The Department's determination is REVERSED.

2. The Department shall initiate reinstatement and processing of Claimant's FAP benefits effective June 1, 2013.

3. The Department shall initiate supplementation of lost FAP benefits that Claimant was entitled to receive if otherwise and qualified in accordance with Department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: August 13, 2013
Date Mailed: August 13, 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 receipt 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

CMM/tm

cc: [redacted]