

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

IN THE MATTER OF:

████████████████████
████████████████████ ET
DETROIT MI 48227

Reg. No.: 2014-1230
Issue No.: 3009
Case No.: ██████████
Hearing Date: October 30, 2013
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 30, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included ██████████, Specialist.

ISSUE

The issue is whether DHS properly excluded Claimant as a group member from a Food Assistance Program (FAP) determination due to criminal justice disqualifications.

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 FAP benefit recipient.
2. On an unspecified date, DHS determined that Claimant was a fugitive felon and imposed a criminal justice disqualification against Claimant.
3. On ████████/13, DHS determined Claimant's FAP benefit eligibility, effective ████████/2013, in part, by excluding Claimant from the FAP benefit group due to a criminal justice disqualification.

4. On [REDACTED]/13, Claimant requested a hearing to dispute her exclusion from the FAP benefit determination and to dispute an alleged termination of Medical Assistance (MA) eligibility.
5. Claimant testified that DHS took no action on MA eligibility and that she has no dispute concerning MA eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a FAP benefit determination. Claimant testified that her dispute was limited to DHS excluding her from the FAP benefit group determination. It was not disputed that DHS excluded Claimant based on a criminal justice disqualification.

The Michigan Department of Human Services (DHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 811 (7/2013), p. 1. Michigan State Police (MSP) identifies clients who are currently fugitive felons on a monthly basis. *Id.* MSP also identifies when the client is no longer a fugitive felon on a daily basis. *Id.*

Fugitive felons are not eligible for assistance. BEM 204 (7/2013), 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. *Id.* A fugitive felon is a person 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.
- Admits to being a fugitive felon.

Id.

The only evidence presented by DHS to justify the criminal justice disqualification against Claimant was that Bridges, the DHS database, indicated that Claimant was a fugitive felon. DHS could not identify any of the specifics (e.g. warrant city of origin, date of warrant, criminal charge) on the warrant. It would be exceptionally naive to assume that all information within Bridges is correct and that DHS should not have to provide proof to support criminal justice disqualification. The failure to provide specifics of the

fugitive felon allegation makes it impossible for a client to rebut the allegation. Based on the presented evidence, it is found that DHS failed to justify a criminal justice disqualification against Claimant. Accordingly, the FAP benefit determination, effective 10/2013, was improper.

It should be noted that DHS presented testimony that the criminal justice disqualification was originally imposed to affect Claimant's [REDACTED]/2013 FAP eligibility. Claimant is not entitled to a redetermination of FAP benefits from [REDACTED]/2013 because her hearing request related to a DHS case action affecting Claimant's [REDACTED]/2013 FAP eligibility.


DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS took no adverse actions against Claimant's MA benefit eligibility. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP benefit eligibility. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP benefit eligibility, effective [REDACTED]/2013, subject to the finding that Claimant was not a fugitive felon; and
- (2) initiate a supplement of any FAP benefits improperly not issued.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/8/2013

Date Mailed: 11/8/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;

- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

CG/w

cc:

