

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

IN THE MATTER OF:



Reg. No.: 201414172
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: December 19, 2013
County: Wayne County DHS # 76

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 December 19, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Assistance Payment Supervisor, and [REDACTED] [REDACTED] Assistance Payment Worker.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case based on a criminal justice disqualification?

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 recipient of FAP benefits.
2. On November 12, 2013, the Department sent Claimant a Notice of Case Action advising him that his FAP case would close effective December 1, 2013, due to a criminal justice disqualification.
3. On November 21, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

People convicted of certain crimes, such as trafficking and drug-related felonies; probation or parole violators; and fugitive felons are not eligible for FAP assistance. BEM 203 (July 2013), p. 1. The Department matches benefit recipient data with the Michigan State Police (MSP), which identifies on a monthly basis clients who are currently fugitive felons and on a daily basis clients who are no longer fugitive felons. BAM 811 (December 2013), p. 1; BAM 800 (July 2013), p. 5. When a fugitive felon match appears on the Department's system, the Department is required to send the client a Notice of Case Action informing the client that they have a criminal justice disqualification showing and to go to a local law enforcement agency to resolve the issue. BAM 811, p 1.

In this case, the Department testified that a data match with the MSP identified that Claimant was subject to a criminal justice disqualification. As a result, the Department sent Claimant a Notice of Case Action on November 12, 2013, informing him that his FAP case would close effective December 1, 2013, because he was subject to a criminal justice disqualification and advising him to contact his local law enforcement agency to resolve this issue.

At the hearing, Claimant testified that he had been charged with carrying a concealed weapon with an expired license but he was not convicted of any crimes. The Department was unable to provide any evidence concerning the criminal disqualification at issue to rebut Claimant's testimony. In the absence of any evidence that Claimant was subject to a criminal disqualification, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP case.

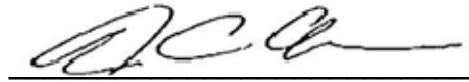
It is noted that the Department did not reinstate Claimant's FAP benefits pending the hearing as required by Department policy. See BAM 600 (July 2013), pp. 21-22. In light of the finding that the Department improperly closed Claimant's FAP case, no further discussion of the issue is warranted as Claimant's concerns are addressed by the order below requiring the Department to reinstate FAP benefits.

DECISION AND ORDER

Accordingly, the Department's FAP decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FAP case effective December 1, 2013;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from December 1 2013, ongoing.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 27, 2013

Date Mailed: December 27, 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

201414172/ACE

ACE/hj

cc:

