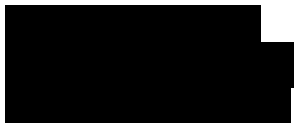


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201320607
Issue No: 3028
Case No: [REDACTED]
Hearing Date: January 31, 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 7, 2013. After due notice, a telephone hearing was held on January 31, 2013. Claimant's mother, [REDACTED], appeared by three-way conference call and provided testimony on Claimant's behalf. The department was represented by Rachel McMaster, an assistance payments worker with the department's DHS MI-CAP/SSPC office.

ISSUE

Whether the department properly determined Claimant's eligibility for Michigan Combined Application Project (MiCAP) Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. Claimant was a recipient of MiCAP FAP benefits in the amount of \$186.00 per month at all times relevant to this hearing. (Department Exhibit 2).
2. On December 31, 2012, the department mailed Claimant a Notice of Case Action (DHS-1605) advising him that, effective January 31, 2013, his MiCAP FAP benefits would be closed for the reason that Claimant is not eligible for assistance due to a criminal justice disqualification. (Department Exhibits A, B; see also Department Hearing Summary)
3. On January 9, 2013, Claimant requested a hearing protesting the department's closure of his MICAP FAP benefits. (Hearing Request)

4. On January 22, 2013, Claimant submitted documentation to the Michigan Administrative Hearing System, including in relevant part a January 8, 2013 statement from Ronaldo Turner, a police officer with the City of Detroit Department of Police, wherein Officer Turner stated:

Investigation per fingerprint comparison disclosed that [REDACTED] has no criminal history with the Detroit Police Department. Fingerprints do not match subject with [REDACTED] name was used as an alias by [REDACTED]. (Claimant Exhibit 1)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department provides an administrative hearing to review the decision and determine its appropriateness of that decision. BAM 600. The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the program are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Michigan Combined Application Project (MiCAP) is a Food Assistance demonstration project approved by the Food and Nutrition Service (FNS). MiCAP is a series of waivers that allows DHS to issue FAP benefits to Supplemental Security Income (SSI) individuals who qualify for this program. BEM 618. Food Assistance benefits continue for the duration of the benefit period unless an individual is no longer eligible for MiCAP. BEM 618.

BEM 618 provides that once eligible, eligibility continues until redetermination unless an individual: (i) loses SSI eligibility; (ii) moves out of state; (iii) is ineligible due to a change in the SSA living arrangement code; (iv) dies; or (v) becomes a mandatory member of a relative's active FAP case. However, BEM 618 further provides as an *exception* to this ineligibility criteria that an adult child between the ages of 18 and 22 who meets the criteria under the targeted MiCAP population *may still receive MiCAP benefits even if living with his or her parents*. BEM 618. (Emphasis added). The targeted MiCAP population are SSI individuals with the following characteristics:

- age 18 or older;
- receives the maximum SSI amount but does not receive any other income;

- meets the Social Security Administration's definition of independent living;
- resides in Michigan;
- purchases and prepares food separately;
- is not currently active in the Food Assistance Program.

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

In the instant case, on December 31, 2012, the department mailed Claimant a Notice of Case Action (DHS-1605) advising him that, effective January 31, 2013, his MICAP FAP benefits would be closed for the reason that Claimant is not eligible for assistance due to a criminal justice disqualification.

At the January 31, 2013 hearing, the department's representative was unable to establish the specific basis for Claimant's "criminal justice disqualification." The department's representative further testified that, in light of Claimant's submission of the written statement from Detroit police officer Ronaldo Turner regarding the absence of any criminal history on Claimant with the Detroit Police Department, it is possible that the closure of Claimant's MICAP FAP benefits case was due to department error.

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 did not act in accordance with policy when the department closed Claimant's MIFAP benefits effective January 31, 2013 due to a criminal justice disqualification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act in accordance with policy when the department closed Claimant's MIFAP benefits effective January 31, 2013 due to a criminal justice disqualification.

Accordingly, the department's actions are **REVERSED** and the department shall immediately reinstate Claimant's MIFAP benefits for the benefit period effective February 1, 2013 and issue supplement checks for any months he did not receive the correct amount of benefits if he was otherwise entitled to them.

It is **SO ORDERED**.

/s/_____

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

Date Signed: February 1, 2013

Date Mailed: February 1, 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 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 60 days of the filing of the original request.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision

201320607/SDS

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:

[REDACTED]
DHS-MI-CAP/SSPC

[REDACTED]

S. D. Sonneborn
MAHS