

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-26316
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: March 12, 2013
County: Oakland 04

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 March 12, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant) and [REDACTED] (Claimant's son). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistance Payments Specialist) and [REDACTED] (Assistance Payments Supervisor).

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits due to 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. In January, 2013, the Department, pursuant to a match on its computer system, discovered that Claimant had an adult member of her household FAP group who had an outstanding felony warrant.
2. On January 14, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which reduced Claimant's FAP benefits to \$ [REDACTED] based on a criminal justice disqualification.
3. The Department received Claimant's request for hearing challenging the reduction on January 23, 2013.

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 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 Mich Admin Code, R 400.3001 through R 400.3015.

According to BEM 203, people convicted of certain crimes, fugitive felons, and probation/parole violators are not eligible for assistance. Specifically, BEM 203 at page 2 provides that for FAP, “[a]n individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times will be permanently disqualified if both offenses occurred after August 22, 1996.”

A fugitive felon is a person who: (1) 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); (2) is subject to arrest under an outstanding warrant for extradition arising from a criminal charge against that person in another jurisdiction or (3) admits to being a fugitive felon. BEM 203.

The Department will document on its computer system known as “Bridges” when the following apply: (1) an individual self discloses as a fugitive felon; (2) a DHS match identifies an individual as a fugitive felon; and (3) a written statement is obtained from a law enforcement official, prosecuting attorney or OIG identifies an individual as a fugitive felon and locating or apprehending the individual is within the officer’s official duties. BEM 203.

Bridges will disqualify the individual as a fugitive felon as long as he or she is subject to arrest under an outstanding warrant. BEM 203.

Here, Claimant disputes the Department’s decision to reduce her FAP allotment due to a criminal justice disqualification. The reduction occurred after Bridges obtained a DHS match notification that Claimant’s adult FAP group member (Desiree Cunningham) was a “fugitive felon.” The Department removed ██████████ from the FAP group based on her fugitive felon DHS match in January, 2013. Claimant provided evidence that subsequently, on or about February 27, 2013, Ms. Cunningham had all charges dismissed. However, during the relevant time period, the Department properly removed Ms. Cunningham from the FAP group because ██████████ was, in fact, a “fugitive felon” as defined by BEM 233. The record shows that ██████████, during the relevant time period, was “subject to arrest under an outstanding warrant arising from a felony charge” against her. The fact that later ██████████ had the charges dismissed at a later time does not mean the Department acted improperly by

disqualifying her from the FAP group at the time. The Department complied with BEM 233 during the applicable time period.

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 when it reduced Claimant's monthly FAP allotment due to fugitive felon status.

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

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 13, 2013

Date Mailed: March 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 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.

2013-263126/CAP

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

CAP/cr

cc:

