

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201332566
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: April 2, 2013
County: Wayne 31

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

AMENDED HEARING DECISION

On April 8, 2013, a Hearing Decision and Order was issued that reversed the Department's decision to close Claimant's Food Assistance Program (FAP) based on a criminal justice disqualification. Paragraph 3 of the findings of fact erroneously indicated that Claimant requested a hearing on February 20, 2013 challenging the denial of an application. However, Claimant's request for hearing challenged the Department's decision to close her FAP case. The following Amended Hearing Decision and Order only corrects the fact that Claimant's request for hearing was due to FAP closure rather than FAP application denial. No other substantive changes are made to the Decision and Order previously mailed on April 8, 2013.

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 April 2, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case 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. Claimant was active for FAP with a monthly allotment of \$ [REDACTED]

2. On February 11, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FAP case, effective March 1, 2013, due to ineligibility based on a "criminal justice disqualification." The DHS-1605 also noted, "Please contact your local law enforcement agency to resolve."
3. The Department received Claimant's request for hearing challenging the Department's closure of her FAP case on February 20, 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. A "fugitive felon" is a person who is: (1) 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's computer system, known as "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.

Michigan State Police (MSP) identifies clients who are currently fugitive felons on a monthly basis. BAM 811. MSP also identifies when the client is no longer a fugitive felon on a daily basis. BAM 811.

Here, the Department representative who attended the hearing indicated that she noticed a Bridges computer DHS match indicating that Claimant was a "fugitive felon." The Department did not include any objective documents in the hearing packet to show that Claimant did, in fact, have a felony conviction, was a fugitive felon or had any other criminal justice disqualification. The Department also did not provide any documentation from the MSP in the hearing record. The only document provided by the Department in the record that referenced a criminal justice disqualification was the DHS-1605. Per the DHS-1605, Claimant was specifically instructed to contact her **local** law enforcement agency to resolve the matter. Claimant was not instructed to contact the MSP or any other law enforcement agency.

Claimant, on the other hand, brought a letter of clearance dated March 28, 2013, which was included in the record. According to the letter of clearance, Claimant, at no time, had a criminal history or otherwise had a felony contained on her record. There is no evidence anywhere to show that Claimant, at any time, was ineligible for FAP based on BEM 203 or BAM 811. There is no objective evidence in this record that Claimant was ever a fugitive felon or was otherwise subject to arrest under an outstanding warrant. In fact, the record does not even show whether the purported DHS match indicating that Claimant was a fugitive felon is accurate or reliable. In this regard, the Department representative testified during the hearing that it may be the result of a computer error.

The Administrative Law Judge determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600. Here, this Administrative Law Judge finds that the Department has failed to carry its burden of proof and did not provide information necessary to enable this ALJ to determine whether the Department followed policy as required under BAM 600. The Department has simply failed to meet its burden of proof in this matter.

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 not act properly when it closed Claimant's FAP case based on a criminal justice disqualification.

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

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

The Department shall initiate a reprocess Claimant's FAP case back to the date of closure March 1, 2013.

If it is later determined that Claimant did not have a criminal justice disqualification and was otherwise eligible for FAP, the Department shall provide Claimant with supplemental and/or retroactive FAP back to March 1, 2013.

IT IS SO ORDERED.

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

Date Signed: April 9, 2013

Date Mailed: April 9, 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.

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:

