

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201336663
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: April 23, 2013
County: Wayne County DHS #76

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 April 23, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant) and [REDACTED] (Claimant's sister). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Medical Contact Worker).

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 benefits.
2. On March 11, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FAP case effective April 1, 2013 due to a criminal justice disqualification.
3. On March 22, 2013, the Department received Claimant's request for hearing (DHS-18) challenging the FAP closure.

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: (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.

BEM 203 instructs the Department worker to document the Department’s computer system known as “Bridges” when: (1) an individual self discloses as a fugitive felon; (2) a DHS match identifies an individual as a fugitive felon or (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. 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.

A person who is violating a condition of probation or parole imposed under a federal or state law is disqualified. BEM 203. The person is disqualified as long as the violation occurs. BEM 203.

The Michigan Department of Human Services (DHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 811. Information provided with DHS applications (DHS-1010, -4574, -4574-B, -4583 and DCH-373) inform clients of the data exchange process. BAM 811.

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.

When Bridges sets a client to close, the DHS-1605, Notice of Case Action, will be generated. BAM 811. This notice will inform 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.

The daily fugitive felon match will identify those who have a criminal disqualification on an active case who are no longer a fugitive felon and create a task and reminder. BAM 811. The specialists are to update the conviction screen and review eligibility within the standard of promptness which is 10 days for FAP and 15 days for the other programs. BAM 811. If it is found that neither match is accurate, the specialist will correct the fugitive felon status in Bridges. BAM 811. The next fugitive felon matches will not show the client. BAM 811.

Here, the Department contends that Claimant was no longer eligible for FAP due to a criminal justice disqualification. The Department representative did not provide any specific evidence or testimony regarding Claimant's purported criminal justice disqualification. Claimant, on the other hand, states that he does not have a felony conviction and that he forwarded his fingerprints to the [REDACTED] for verification.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record, including the documentation provided by the parties. The Department provided the following as evidence: Bridges eligibility summaries, Bridges FAP Notice Reasons, and the notice of case action. The Department did not provide any documentation from any police agency indicating that Claimant had a felony conviction. Claimant, on the other hand, provided an April 23, 2013 Letter of Clearance from the [REDACTED] Police Department which indicated no criminal history record could be located concerning Claimant. The Department cannot meet its burden of proof without any objective evidence to show Claimant had a felony conviction or was otherwise not eligible for FAP due to a criminal justice disqualification. Bridges documentation is insufficient to establish a criminal justice disqualification.

Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the Department did not act properly when it closed Claimant's FAP case due to a criminal justice disqualification.

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 due to 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 redetermination of Claimant's FAP case back to the date of closure.
- If it is later determined that the criminal justice disqualification is erroneous, the Department shall retroactively correct Bridges and remove any entries pertaining to a criminal justice disqualification.
- The Department shall provide Claimant with supplemental and/or retroactive benefits to the extent he is eligible for same and to the extent policy requires.

IT IS SO ORDERED.

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

Date Signed: April 26, 2013

Date Mailed: April 26, 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/aca

cc:

