

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-38561
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: April 29, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 29, 2013, from Detroit, Michigan. Claimant, along with his Authorized Hearing Representative [REDACTED], Direct Care Worker, appeared and testified. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Assistance Payment Worker.

ISSUE

Did the Department act in accordance with Department policy when it closed 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 January 14, 2013, the Department sent Claimant a Notice of Case Action advising him that his FAP case would be closing effective February 1, 2013 due to a criminal justice disqualification.
3. On April 1, 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), 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.

Additionally, people convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for assistance. BEM 203 (October 1, 2012), p 1. BEM 203 defines a fugitive felon as someone who: 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); is subject to arrest under an outstanding warrant for extradition arising from a criminal charge against that person in another jurisdiction or; admits to being a fugitive felon. BEM 203, 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 (February 1, 2013), p 1; see also MCL 400.10c. This automated process identifies an exact match based on first name, last name, date of birth, social security number and gender. The monthly match will set to close any clients identified as a fugitive felon. BAM 811, p 1. When a 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 identified that Claimant was subject to a criminal justice disqualification. As a result, the Department sent Claimant a Notice of Case Action on January 14, 2013, informing him that his FAP case would close effective February 1, 2013 because he was subject to a criminal justice disqualification. The Notice of Case Action advised Claimant to contact his local law enforcement agency to resolve this issue. (Exhibit 3). BEM 203, p.1; BAM 811. p.1.

Claimant testified that he was not aware of any outstanding criminal justice issues until he received the Notice of Case Action. Claimant stated that he went to his local law enforcement agency in Harper Woods to inquire about any outstanding warrants and was informed that he had none. Claimant testified that he left messages with a Department supervisor and Sergeant whose number was given to him by the Department supervisor to inquire about what else should be done to resolve the issue.

At the hearing, the Department presented an April 29, 2013 letter from the Michigan Office of Inspector General (OIG) indicating that Claimant was an individual subject to an arrest under an outstanding warrant arising from a felony charge issued by the Detroit Police Department on December 31, 2012 and that he continued to meet the outstanding felony warrant criteria as of April 29, 2013. (Exhibit 4). Although the Department did not rely on this letter when it closed Claimant's case, this letter verifies that Claimant's outstanding warrant was not resolved as of the hearing date.

Despite Claimant's efforts to resolve the issue, as of the hearing date, Claimant has not obtained a police clearance and his warrant remains outstanding. Under these facts, the Department acted in accordance with Department policy when it closed Claimant's FAP case based on the 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 acted in accordance with Department policy when it closed Claimant's FAP case based on a criminal justice disqualification. Accordingly, the Department's decision is AFFIRMED.



Zainab Baydoun

Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 8, 2013

Date Mailed: May 8, 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

ZB/cl

cc:

