

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201344848
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: May 30, 2013
County: Wayne County (#57)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted on Thursday May 30, 2013 from Detroit, Michigan. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Assistant Payment Supervisor).

ISSUE

Whether the Department properly 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 April 15, 2013 the Department sent Claimant a Notice of Case Action advising him that his FAP case would close effective May 1, 2013, due to a criminal justice disqualification. (Exhibit 1)
3. On April 24, 2013 Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

The Department of Human Services (DHS) 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.

Policy provides that people convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for assistance. BEM 203 (October 2012), p. 1. A person who has been convicted of a felony for the use, possession, or distribution of controlled substances is disqualified if; terms of probation or parole are violated, **and** the qualifying conviction occurred after August 22, 1996. If the individual is not in violation of the terms of probation or parole, FAP benefits must be issued to an authorized representative. BEM 203, p. 3. The Department computer system (Bridges) matches benefit recipient data with the Michigan State Police (MSP). 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.

In this case, the Department testified that according to a Bridges Mass Update / Interface, a data match identified that Claimant was subject to a criminal justice disqualification due to a drug related felony conviction. Claimant did not dispute that he was convicted of a felony for drug possession in 1999. As a result the Claimant was subject to the disqualification in accordance with policy. Policy however provides that an individual with a first offense may receive FAP benefits issued to an authorized representative. Claimant was advised of the policy. The Department established it acted in accordance with policy when it closed Claimant's FAP case.

Accordingly, the Department action is upheld.

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 closed Claimant's FAP case effective May 1, 2013 based on a criminal justice disqualification.

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

M. Howie

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

Date Signed: 6/6/2013

Date Mailed: 6/6/2013

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

MH/hw

cc:

