

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013 50059
Issue No.: 3052
Case No.: ██████████
Hearing Date: June 27, 2013
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 June 27, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and a witness, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Medical Contact Worker and ES, and ██████████, Recoupment Specialist.

ISSUE

Is the Claimant's hearing request regarding the imposition of an Intentional Program Violation and recoupment of FAP benefits timely?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. A decision was issued on November 16, 2004 imposing an Intentional Program Violation on the Claimant and determined that the Department was entitled to recoup an overissuance of FAP benefits in the amount of \$1,119. Exhibit 1
2. The Claimant on May 22, 2013 filed a hearing request protesting the imposition of an IPV and recoupment of FAP benefits.
3. The Claimant asserted he was living on Cobert in the hearing request.
4. The Claimant said that he resided at ██████████, and moved to his current address ██████████, in 1998 or 1999 and filed a change

of address. The Claimant brought no information to the hearing which would establish where he was living at the time of the hearing.

5. Paragraph 8 of the Decision notes that the notice of the hearing was sent to the Central address in Detroit and was not returned as undeliverable.

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.

Additionally, in this case it is determined that the Notice of hearing was sent to the Claimant at his then current address and that the Notice was not returned as undeliverable and therefore, it is determined that the Claimant did receive notice of the hearing and therefore his hearing request is untimely. Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903 provides in relevant part:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance. [R 400.903(1).]

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Bridges Administrative Manual (BAM) 600, p. 4, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In the present case, the Department sent Claimant a notice of hearing in 2004 to the correct address and the Claimant did not appear for the hearing. However, Claimant did not file a request for hearing to contest the Department's action until May 22, 2013, almost 10 years after the decision and order was issued. Claimant's hearing request

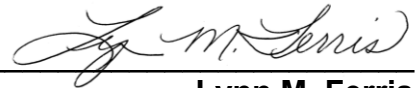
was therefore not timely filed within ninety days of the Notice of Case Action, and is therefore DISMISSED for lack of jurisdiction. Bridges Administrative Manual (BAM) 600, p 4 (2012)

It is SO ORDERED.

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 properly pursue debt collection and recoupment and disqualify the Claimant from receiving FAP benefits due to an intentional program violation and that Claimant's hearing request regarding the prior decision was untimely.

Based upon the foregoing the Claimants request for hearing dated May 22, 2013 is untimely and is DISMISSED.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 16, 2013

Date Mailed: July 16, 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 affect the substantial rights of the claimant,
 - failure of the ALJ to address other relevant issues in the hearing decision.

2013-50059/LMF

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

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]