

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

IN THE MATTER OF:



Reg. No.: 201353960
Issue No.: 1022, 3009
Case No.: [REDACTED]
Hearing Date: July 18, 2013
County: Macomb DHS (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 July 18, 2013 from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly reduced Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) eligibility 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 an ongoing FIP and FAP benefit recipient.
2. Claimant was part of a FAP and FIP benefit group of two persons.
3. On an unspecified date, DHS determined that Claimant was disqualified for an unspecified criminal matter.
4. On 6/10/13, DHS mailed Claimant a Notice of Case Action (Exhibits 1-7) reduced Claimant's FIP and FAP eligibility, effective 7/2013, based on a criminal justice disqualification against Claimant.

5. On 6/20/13, Claimant requested a hearing to dispute the FIP and FAP benefit reductions.

CONCLUSIONS OF LAW

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The present case concerns a dispute regarding FIP and FAP benefit reductions. It was not disputed that the reductions were the result of a Claimant's disqualification related to a criminal matter.

DHS matches recipient data with other agencies through automated computer data exchanges. BAM 811 (5/2013), p. 1. Michigan State Police (MSP) identifies clients who are currently fugitive felons on a monthly basis. MSP also identifies when the client is no longer a fugitive felon on a daily basis. *Id.*

Fugitive felons are not eligible for assistance. BEM 204 (6/2013), p. 1. Bridges will disqualify the individual as a fugitive felon as long as he or she is subject to arrest under an outstanding warrant. *Id.* A fugitive felon is a person 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.
- Admits to being a fugitive felon.

Id.

The testifying DHS specialist conceded that she had no specific information concerning why Claimant was disqualified. The specialist testified that she only knows that the DHS database determined that Claimant was disqualified due to a criminal justice disqualification; the reason for disqualification was verified by the Notice of Case Action (Exhibits 1-7).

The only basis for disqualification was presented by Claimant. Claimant testified that she had an outstanding warrant against her, that the warrant was improperly issued and that she resolved the matter. Claimant testified that she was given a document (Exhibit 8) from the court which verified that a warrant was revoked. Claimant's document was not unequivocal verification that the warrant was cancelled, but appears to show the warrant database transaction history including a "warrant cancellation request" and

“warrant cancelled from LEIN”. The document is found to verify that a warrant was cancelled.

It is mildly tempting to affirm the actions of DHS merely because it was not disputed that there was an outstanding warrant against Claimant at the time Claimant was disqualified. Ultimately, the temptation was declined.


DHS failed to verify that the outstanding warrant against Claimant arose from a felony. It is inappropriate to assume that it was simply because the DHS database disqualified Claimant. It did not help the DHS argument that the basis of the warrant appeared to be baseless when factoring how quickly Claimant resolved the warrant. Accordingly, it is found that the disqualification imposed by DHS was improper as was the corresponding benefit reductions.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly reduced Claimant’s eligibility for FIP and FAP benefits. It is ordered that DHS:

- (1) redetermine Claimant’s FIP and FAP eligibility, effective 6/2013, subject to the finding that the criminal justice disqualification against Claimant was improper;
- (2) supplement Claimant for any benefits improperly not issued.

The actions taken by DHS are REVERSED.


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

Date Signed: 7/26/2013

Date Mailed: 7/26/2013

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 affect the substantial rights of the claimant,
 - 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

CG/hw

cc:

