

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201418295
Issue No.: 2000; 3009; 4007
Case No.: [REDACTED]
Hearing Date: January 16, 2014
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's applications for Food Assistance Program (FAP) and State Disability Assistance (SDA) because of a criminal 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. On [REDACTED], 2013, Claimant applied for FAP and SDA.
2. On [REDACTED], 2013, the Department denied Claimant's application.
3. On [REDACTED] 2013, Claimant reapplied for FAP.
4. On [REDACTED] 2013, the Department denied Claimant's application.
5. On [REDACTED], 2013, Claimant filed a request for hearing disputing the Department's actions concerning his FAP, SDA and Medical Assistance (MA) applications.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Additionally, although Claimant requested a hearing concerning his MA, FAP and SDA applications, at the hearing he testified that his MA concerns had been resolved and he no longer wished to pursue a hearing concerning that issue. The Department agreed to dismissal of Claimant's hearing request concerning his MA application. Accordingly, Claimant's [REDACTED], 2013, hearing request concerning his MA application is dismissed. The hearing proceeded to address the Department's denial of Claimant's FAP and SDA applications.

At the hearing, the Department testified that Claimant's applications were denied due to a criminal justice disqualification. People convicted of certain crimes, such as trafficking and drug-related felons, probation or parole violators, and fugitive felons, are not eligible for FAP or SDA assistance. BEM 203 (July 2013), p. 1; BEM 204 (July 2013), p. 1.

In this case, the Department testified that a data match with the Michigan State Police (MSP) identified that Claimant was subject to a criminal justice disqualification. One of the Department's documents showed that Claimant was identified as a fugitive felon. The Department matches benefit recipient data with 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 (December 2013), p. 1; BAM 800 (July 2013), p. 5. When a fugitive felon 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.

A fugitive felon is a person who (i) 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), (ii) is subject to arrest under an outstanding warrant for extradition arising from a criminal charge against that person in another jurisdiction, or (iii) admits to being a fugitive felon. BEM 204, p. 1.

At the hearing, Claimant denied having any criminal charges or outstanding warrants against him. Claimant presented a Register of Actions that he submitted to the Department with his [REDACTED] 2013, application showing that he had been subject to a warrant in [REDACTED] 2013 but that he was charged and sentenced to probation on [REDACTED] [REDACTED] 2013. Claimant denied having violated any probation requirements. The Department was unable to provide any evidence concerning the criminal disqualification at issue to rebut Claimant's testimony that he was not in violation of probation or that he was not a fugitive felon. In the absence of any evidence that Claimant was subject to a criminal disqualification, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's FAP and SDA applications.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden that it acted in accordance with Department policy when it denied Claimant's FAP and SDA application.

DECISION AND ORDER

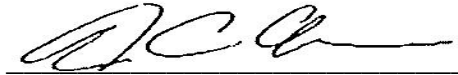
Based on the parties' agreement, Claimant's December 9, 2013 hearing request concerning his MA applications is DISMISSED.

The Department's FAP and SDA decisions are REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister and reprocess Claimant's [REDACTED], 2013, FAP and SDA application;

2. Issue supplements to Claimant for any FAP and/or SDA benefits he was eligible to receive but did not from [REDACTED], 2013, ongoing.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 22, 2014

Date Mailed: January 22, 2014

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/tlf

cc:

[REDACTED]