

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

IN THE MATTER OF:

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Reg. No.: 14-014937
Issue No.: 2000; 3009
Case No.: ██████████
Hearing Date: December 1, 2014
County: WAYNE-DISTRICT 57
(CONNER)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 December 1, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist; and ██████████, Hearings Facilitator.

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) application effective September 25, 2014?

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 September 25, 2014, Claimant applied for FAP benefits.
2. On October 8, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP application was denied effective September 25, 2014, ongoing, due to a criminal justice disqualification. See Exhibit 1, pp. 6-7.
3. On October 20, 2014, Claimant filed a hearing request, protesting her FAP denial and Medical Assistance (MA) denial. See Exhibit 1, pp. 2-5.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

On September 25, 2014, Claimant applied for MA benefits. See Exhibit 1, p. 1. On October 16, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying her that her MA benefits were denied effective September 1, 2014. See Exhibit 1, p. 4. As such, on October 20, 2014, Claimant filed a hearing request, protesting her MA application denial. See Exhibit 1, pp. 2-5.

Subsequent to Claimant's hearing request, on October 27, 2014, the Department sent Claimant a determination notice notifying her that she was approved for MA benefits effective September 1, 2014, ongoing. See Exhibit 1, p. 9. The Department also presented Claimant's Eligibility Summary, which indicated she received MA benefits effective September 1, 2014, ongoing. See Exhibit 1, p. 8. Claimant acknowledged during the hearing that she receives her MA benefits and she is no longer disputing her MA benefits.

Based on the foregoing information and evidence, Claimant's MA issue is now moot because of the Department's subsequent action of certifying the MA benefits. This resulted in the Claimant having no lapse of MA coverage. See Exhibits 1, pp. 7-9. As such, Claimant's MA hearing request is **DISMISSED**. See BAM 600 (October 2014), pp. 4-6.

Criminal justice disqualification

The Michigan Department of Human Services (DHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 811 (July 2014), p. 1. The Michigan State Police (MSP) identifies clients who are currently fugitive felons on a monthly basis. BAM 811, p. 1. MSP also identifies when the client is no longer a fugitive felon on a daily basis. BAM 811, p. 1. This automated process in the Department's system identifies an exact match based on first name, last name, date of birth, social security number and gender. BAM 811, p. 1.

The monthly match will set to close any clients identified as a fugitive felon. BAM 811, p. 1. When the Department sets a client to close, the DHS-1605, Notice of Case Action, will be generated. BAM 811, p. 1. This notice will inform 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. There is also policy regarding daily fugitive felon match, which will identify those who have a criminal disqualification on an active case and any DHS actions that are taken if verification is provided showing the client is no longer a fugitive felon. See BAM 811, pp. 1-2.

In this case, Claimant applied for FAP benefits on September 25, 2014. The Department testified that its system matched with MSP that Claimant had a criminal justice disqualification. The Department testified that it does not know what the criminal justice disqualification is and that the system automatically denies the application when there is a match. Thus, on October 8, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP application was denied effective September 25, 2014, ongoing, due to a criminal justice disqualification and to contact a law enforcement agency. See Exhibit 1, pp. 6-7. Subsequent to the denial notice, the Department testified it spoke with the Claimant regarding the denial reason.

At the hearing, Claimant testified that she did not know of any criminal justice disqualification until she received the denial notice dated October 8, 2014. Upon receipt of the denial notice, Claimant contacted the Department to inquire on the denial reason. Afterwards, Claimant testified she contacted the Detroit Police Department who informed her she had an outstanding warrant from 1995 for uttering and publishing. Claimant argued that the charge was falsely under her name. Nevertheless, Claimant testified that she went to the police department to turn herself in and a court date was set to resolve the outstanding charge. On November 3, 2014, Claimant went to the State of Michigan 36th District Court and the Judge entered an Order of Dismissal based on insufficient evidence and complaining witness has failed to appear. See Exhibit A, p. 1. As of November 3, 2014, the evidence presented that Claimant's charge is dismissed and she is no longer subject to arrest under an outstanding warrant. See Exhibit A, p. 1.

Regarding FAP benefits, fugitive felons are not eligible for assistance. BEM 204 (July 2013), p. 1. 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.

BEM 204, p. 1. Furthermore, the Department documents its system when the following apply:

- An individual self discloses as a fugitive felon.
- DHS match identifies an individual as a fugitive felon.
- A written statement is obtained from a law enforcement official, prosecuting attorney or Office of Inspector General (OIG) identifies an individual as a fugitive felon and locating or apprehending the individual is within the officer's official duties.

BEM 204, p. 1. The Department will disqualify the individual as a fugitive felon as long as he or she is subject to arrest under an outstanding warrant. BEM 204, p. 1.


Based on the foregoing information and evidence, the Department properly denied Claimant's FAP application. The evidence indicated that at the time of the application, Claimant was subject to arrest under an outstanding warrant arising from a felony charge and this was documented based on a DHS system match. See BEM 204, p. 1. This automated process in the Department's system identifies an exact match based on first name, last name, date of birth, social security number and gender. BAM 811, p. 1. Thus, at the time of application, the Department could have only identified Claimant as a fugitive felon if all of the above identifying factors matched (i.e., first name, last name, etc.). In fact, Claimant acknowledged/self-disclosed during the hearing that there was an outstanding warrant under her name dating back to 1995. Claimant testified that the warrant was under her name, but it was not her. Nevertheless, the Department acted in accordance with Department policy when denied her FAP application because it had a system match which identified the Claimant as having a criminal justice disqualification. See BEM 204, p. 1. Claimant subsequently had her charges dismissed via a court order; however, at the time of application, an outstanding felony warrant existed. Claimant can reapply for FAP benefits.

DECISION AND ORDER

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 acted in accordance with Department policy when it properly denied Claimant's FAP application effective September 25, 2014.

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

IT IS ALSO ORDERED that Claimant's MA hearing request (dated October 20, 2014) is **DISMISSED**.


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

Date Signed: **12/4/2014**

Date Mailed: **12/4/2014**

EJF / cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

