

**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.: 14-002658
Issue No.: 3009
Case No.: ██████████
Hearing Date: June 16, 2014
County: MACOMB (20)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 June 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Hearing Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case 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. Claimant was an ongoing FAP recipient.
2. The Department received a data match from the Michigan State Police (MSP) which showed that Claimant was subject to a criminal justice disqualification because he had been identified as a fugitive felon.
3. On May 12, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP case would close as a result of a criminal disqualification.
4. On May 16, 2014, Claimant filed a Request for Hearing disputing the Department's actions.

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.

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 felonies; 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.

Claimant presented an Order of Dismissal from [REDACTED], which typically handles misdemeanors. The Order of Dismissal does not identify whether the case was the result of a felony or misdemeanor criminal charge. Claimant denied having any other current charges. The Department was unable to provide any evidence concerning the criminal disqualification at issue to establish that Claimant had an outstanding warrant relating to a felony charge. 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 closed Claimant's FAP case.

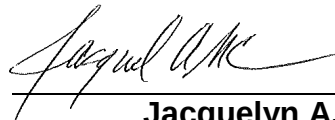
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FAP case effective June 1, 2014.

DECISION AND ORDER

Accordingly, the Department's decision is **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. Reinstate Claimant's FAP benefits effective June 1, 2014, ongoing; and
2. Issue supplements to Claimant for an FAP benefits he was eligible to receive but did not from June 1, 2014, ongoing.



Jacquelyn A. McClinton
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/26/2014**

Date Mailed: **6/26/2014**

JAM/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 48909-07322

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]