

**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.: 2014-22840
Issue No(s): 3009
Case No.: ██████████
Hearing Date: February 12, 2014
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 February 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and his son, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Assistance Payment Supervisor and ██████████ ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case on the basis that he was subject 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 recipient of FAP benefits.
2. Claimant's FAP case closed effective December 1, 2013. (Exhibit 1)
3. On January 15, 2014, Claimant submitted a hearing request disputing the closure.

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.

Additionally, people convicted of certain crimes and probation or parole violators are not eligible for FAP benefits. BEM 203 (July 2013), p. 1. Fugitive felons are not eligible for assistance. A fugitive felon is a person who: is subject to arrest under an outstanding warrant arising from a felony charge against that person; is subject to arrest under an outstanding warrant for extradition arising from a criminal charge against that person in another jurisdiction; or admits to being a fugitive felon. BEM 204 (July 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. BEM 204, p.1.

The Department matches benefit recipient data with the Michigan State Police (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; see also MCL 400.10c. This automated process identifies an exact match based on first name, last name, date of birth, social security number and gender. The monthly match will set to close any clients identified as a fugitive felon. BAM 811, p 1. When a 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.

At the hearing, the Department testified that Claimant's FAP case was closed on the basis that he was subject to a criminal justice disqualification. The Department presented a February 4, 2014, letter from the Michigan Office of Inspector General (OIG) indicating that Claimant was an individual subject to an arrest under an outstanding warrant arising from a felony charge issued by the Detroit Police Department on February 3, 2010 and that he continued to meet the outstanding felony warrant criteria as of February 4, 2014. (Exhibit 3). The Department testified however, that a Notice of Case Action informing Claimant of the FAP case closure effective December 1, 2013, was not sent to Claimant.

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 because the Department did not send Claimant timely notice of the case closure as required by both BAM 220 and BAM 811, the Department did not act in accordance with Department policy when it closed Claimant's FAP case effective December 1, 2013.

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 case effective December 1, 2013;
2. Issue supplements to Claimant for any FAP benefits that he was entitled to receive but did not from December 1, 2013, ongoing; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 18, 2014

Date Mailed: February 19, 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.

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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

ZB/tm

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