

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-28575
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: March 19, 2014
County: Barry

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 March 19, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant [REDACTED]. Participants on behalf of Department of Human Services (Department) included Assistance Payments Supervisor [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case due to an intentional program violation 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. In a Decision dated June 6, 2013, Claimant was found by Administrative Law [REDACTED] to have "committed an intentional violation of the FAP program resulting in a total \$ [REDACTED] overissuance." See Hearing Decision for Intentional Program Violation in Reg. No. 2013-27309.
2. A copy of ALJ [REDACTED] Decision was mailed to Claimant at his address in the [REDACTED] in Coldwater, Michigan on June 6, 2013.
3. On June 11, 2013 the Department mailed to Claimant at his last known residence an Intentional Program Violation Client Notice (Exhibit 1 Page 7-9) informing him that he would be disqualified from receiving FAP from July 1, 2013 to June 30, 2014.

4. After Claimant applied for FAP again, the Department advised Claimant on February 5, 2014 that he was ineligible for benefits due to the IPV disqualification; Claimant requested a hearing on February 28, 2014. (Exhibit 1 Page 3.)

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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.

Clients who commit an IPV are disqualified for a standard disqualification period except when a court orders a different period. BAM 720. Clients are disqualified for periods of 1 (one) year for the first IPV, 2 (two) years for the second IPV, a lifetime disqualification for the third IPV, and 10 (ten) years for a concurrent receipt of benefits. BAM 720. If the court does not address disqualification in its order, the standard period applies. BAM 720.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. BAM 105. Clients are required to report changes within 10 (ten) days of receiving the first payment reflecting the change. BAM 105. Clients are required to report changes in circumstances within 10 (ten) days after the client is aware of them. BAM 105. These changes include, but are not limited to changes regarding: (1) persons in the home; (2) marital status; (3) address and shelter cost changes that result from the move; (4) vehicles; (5) assets; (6) child support expenses paid; (7) health or hospital coverage and premiums; or (8) child care needs or providers. BAM 105.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

Claimant testified that he was not disqualified because of an IPV. The evidence is clearly to the contrary. Claimant admitted that he was in prison from January 2010 to January 2014. ██████████ found that he had committed an IPV and there is no testimony or other evidence to indicate that decision had been overturned. Claimant was, and continues to be, disqualified because of the IPV.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department satisfied its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP benefits.

DECISION AND ORDER

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



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 21, 2014

Date Mailed: March 21, 2014

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 effect the substantial rights of the claimant:
 - the 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

DTJ/las

cc:

