

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-30301
Issue No.: 3009
Case No.: ██████████
Hearing Date: March 31, 2014
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 March 31, 2014, from Detroit, Michigan. Participants on behalf of Claimant included ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, ES.

ISSUE

Did the Department properly ☐ deny Claimant's application ☒ close Claimant's case for:

- | | |
|--|---|
| ☐ Family Independence Program (FIP)? | ☐ State Disability Assistance (SDA)? |
| ☒ Food Assistance Program (FAP)? | ☐ Child Development and Care (CDC)? |
| ☐ Medical Assistance (MA)? | ☐ Direct Support Services (DSS)? |
| ☐ Adult Medical Assistance (AMP)? | ☐ State SSI Payments (SSP)? |

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 ☐ applied for ☒ received:
☐ FIP ☒ FAP ☐ MA ☐ AMP ☐ SDA ☐ CDC ☐ DSS ☐ SSP
benefits.
2. On March 1, 2014, the Department
☐ denied Claimant's application ☒ closed Claimant's case
due to a criminal justice disqualification.

3. On February 10, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
4. On February 27, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting 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), and Department of Human Services Reference Tables Manual (RFT).

☒ 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, claimant was allegedly disqualified for a criminal justice disqualification, which allows for a denial or closure of an FAP case if the claimant is classified as a fleeing felon or has 2 or more felony controlled substance convictions since August 22, 1996. BEM 203, 204.

The Department offered no evidence to show that claimant met either of those requirements. There is no evidence that claimant is classified as a fleeing felon, and there is no evidence that claimant has a criminal record, much less 2 or more felony controlled substance convictions. Furthermore, claimant presented a receipt for bond at the hearing showing that he had been released on bond; while claimant was arrested in January, claimant has been released on his own recognizance and is currently awaiting a court date in April. The Department stated that the criminal justice disqualification was activated by an outside agency.

Policy does not require that a case be closed on the say so of a separate government agency. Policy only requires case closure if claimant meets the requirements for a criminal justice disqualification. There is no evidence that claimant meets these requirements, and affirmative evidence that claimant is not subject to a criminal justice disqualification.

Therefore, the Department was incorrect to close claimant's FAP case and should reopen the case posthaste.

The Administrative Law Judge, based upon 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 case for a criminal justice disqualification.

DECISION AND ORDER

Accordingly, the Department's decision is

☐ AFFIRMED.

☒ 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. Reopen claimant's case retroactive to the date of negative action and supplement claimant for any benefits to which they are otherwise entitled.



ROBERT J. CHAVEZ
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 7, 2014

Date Mailed: April 7, 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:

2014-30301/RJC

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

RJC/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]