

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-33134
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: April 23, 2014
County: SSSPC-West

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 three-way telephone hearing was held on April 23, 2014 from Lansing, Michigan. Claimant personally appeared via telephone and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Hearing Facilitator).

ISSUE

Did the Department properly process Claimant's application for Medical Assistance (MA)?

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits due 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 applied for FAP and MA on February 25, 2014.
2. On February 25, 2014, the Department received information through the interface with the Michigan State Police (MSP) that Claimant was a fugitive felon.
3. On March 3, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied his FAP application effective February 25, 2014 due to a criminal justice disqualification. Claimant was instructed to contact the police department, sheriff's department or the MSP to resolve.¹

¹ The DHS-1605 did not address Claimant's application for MA benefits.

4. Claimant requested a hearing to dispute the Department's decision regarding the FAP and MA application.

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 Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

For all programs, upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220, p 1 (1-1-2014).

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). Adequate notice is given in the following circumstances:

All Programs

- Approval/denial of an application.
- Increase in benefits. BAM 220, p 2.

Timely notice is given for a **negative action** unless policy specifies adequate notice or no notice. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. BAM 220, p 4.

The standard of promptness (SOP) is the maximum time allowed to complete a required case action. Cases should be processed as quickly as possible. The SOP sometimes varies by program. BAM 220, p 6.

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.

People convicted of certain crimes, fugitive felons, and probation/parole violators are not eligible for assistance. BEM 203, p 1 (7-1-2013). A "fugitive felon" is a person who: (1) 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); (2) is subject to arrest under an outstanding warrant for extradition arising from a criminal charge against that person in another jurisdiction; or (3) admits to being a fugitive felon. BEM 203.

BEM 203 instructs the Department worker to document the Department's computer system known as "Bridges" when: (1) an individual self discloses as a fugitive felon; (2) a DHS match identifies an individual as a fugitive felon or (3) a written statement is obtained from a law enforcement official, prosecuting attorney or OIG identifies an individual as a fugitive felon and locating or apprehending the individual is within the officer's official duties.

Bridges will disqualify the individual as a fugitive felon as long as he or she is subject to arrest under an outstanding warrant. BEM 203. Law enforcement officers are entitled to receive recipients' addresses if their official duties are apprehending persons wanted for a felony as long as a DHS match or a written statement is received. BEM 203.

The Michigan Department of Human Services (DHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 811. Information provided with DHS applications (DHS-1010, -4574, -4574-B, -4583 and DCH-373) inform clients of the data exchange process. BAM 811.

Michigan State Police (MSP) identifies clients who are currently fugitive felons on a monthly basis. BAM 811. MSP also identifies when the client is no longer a fugitive felon on a daily basis. BAM 811. This automated process in Bridges identifies an exact match based on first name, last name, date of birth, social security number and gender. BAM 811. When Bridges sets a client to close, the DHS-1605, Notice of Case Action, will be generated. BAM 811. 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.

The daily fugitive felon match will identify those who have a criminal disqualification on an active case who are no longer a fugitive felon and create a task and reminder. BAM 811. The specialists are to update the conviction screen and review eligibility within the standard of promptness which is 10 days for FAP and 15 days for the other programs. BAM 811. If it is found that neither match is accurate, the specialist will correct the fugitive felon status in Bridges. BAM 811. The next fugitive felon matches will not show the client. BAM 811.

The Fugitive Felon Report, FF-100 in Bridges, is a monthly summary report to track fugitive felon disqualifications by county. BAM 811. No action is required on this report. BAM 811.

Here, the Department contends that Claimant's February 25, 2014 FAP and MA application was denied due to a criminal justice disqualification (FAP) and because there was a freeze on enrollments for the MA Healthy Michigan Plan (HMP). The Department did not include any documentation in the record to show that Claimant was properly sent notice concerning his MA application. Claimant, on the other hand, contends that he is not a fugitive felon and that he resolved the matter with the court system. Claimant stated that he contacted the MSP and was advised that in order to

clear the matter he would need to pay \$ [REDACTED]. Claimant says that because he doesn't have the money, he is unable to resolve the felony issue.

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).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. With regard to Claimant's request for hearing concerning MA, the Department failed to include any documentation to show that he was sent a notice of case action or any other documents to support that the Department properly processed his MA application. Without this evidence, the Administrative Law Judge is unable to evaluate whether the Department accurately determined Claimant's MA eligibility. Accordingly, this Administrative Law Judge finds that the Department has failed to carry its burden of proof regarding MA and did not provide information necessary to enable this ALJ to determine whether the Department followed policy as required under BAM 600.

With regard to the FAP issue; however, the Department did establish that Claimant was ineligible due to being a fugitive felon according to the MSP. The notice of case action provides that Claimant was to contact the MSP to resolve. Policy does not permit Claimant to look to the Department to resolve this issue because the MSP purportedly requires payment to resolve. Claimant's protestations that he is not a felon are unavailing.

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 denied Claimant's FAP application due to a criminal justice disqualification, but failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's MA application on February 25, 2014.

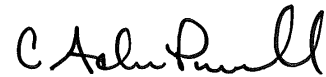
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP and **REVERSED IN PART** with respect to MA.

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. Reregister, reprocess and recertify Claimant's MA application back to February 25, 2014.
2. Redetermine Claimant's MA eligibility.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 25, 2014

Date Mailed: April 25, 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.

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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

CAP/las

cc:

