

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-46831
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: May 17, 2012
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 May 17, 2012, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant's mother). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On May 30, 2006, Claimant was convicted in the [REDACTED] [REDACTED] for Controlled Substance-Possession of Narcotics/Cocaine < 25 grams (MCL §333.74032A5/769.10).
2. On August 17, 2009, Claimant pled guilty to the charge of Controlled Substance-Possession of Narcotics/Cocaine < 25 grams (MCL §333.74032A5/769.10) in the [REDACTED].
3. Claimant applied for FAP benefits on April 11, 2012.

4. On the assistance application, Claimant indicated that he did not have any drug felony convictions.
5. On April 12, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied Claimant's application due to ineligibility based upon his two drug related felonies since August 22, 1996, which results in a permanent disqualification.
6. The Department received Claimant's request for hearing challenging the application denial on April 16, 2012.

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.

According to BEM 203, people convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for assistance. More specifically, BEM 203 at page 2 provides that for FAP, "[a]n individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times will be permanently disqualified if both offenses occurred after August 22, 1996."

Here, Claimant requested a hearing after the Department denied his application for FAP because the Michigan Department of Corrections (MDOC) Offender Tracking Information System (OTIS) indicated that Claimant had at least two felony convictions after August 22, 1996. During the hearing, Claimant testified that he did not recall having two drug related convictions. However, the Department provided compelling evidence that Claimant did, in fact, have at least two felony drug convictions after August 22, 1996. The OTIS document provided by the Department accurately reflected Claimant's felony convictions. Therefore, Claimant is permanently disqualified from FAP per BEM 203. The Department properly denied Claimant's FAP application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly when it determined the Claimant was not eligible for FAP and denied Claimant's application.

Accordingly, the Department's FAP decision is AFFIRMED for the reasons stated above.

IT IS SO ORDERED.

/s/

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

Date Signed: 5/25/12

Date Mailed: 5/25/12

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

CAP/ds



