

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201269406
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: September 10, 2012
County: Wayne DHS (41)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 September 10, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's Food Assistance Program (FAP) benefit application based on Claimant's statements that he had two prior drug-related felonies.

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 7/30/12, Claimant applied for FAP benefits.
2. Claimant was part of a FAP benefit group of one person.
3. Claimant's application noted that he was convicted of a drug-related felony two times after 8/22/96.
4. Claimant reported to DHS that he was convicted of a drug-related felony in 2009 and 2012.

5. On 7/30/12, DHS denied Claimant's application for failing to have any group members because Claimant was disqualified for having two drug-related felony convictions after 8/22/96.
6. On 8/7/12, Claimant requested a hearing to dispute the denial.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS policies consider a person's criminal history in determining FAP benefit eligibility. For FAP benefits, an 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. BEM 203 (10/2011), p. 2.

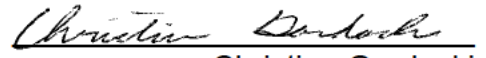
Claimant conceded that he reported to DHS that he was convicted on two prior occasions for drug-related offenses. Claimant conceded that he was convicted of a felony in 2012 but gave clarifying testimony that he voluntarily went to drug treatment in 2009, without being convicted of a felony.

It is plausible that Claimant honestly reported an inaccurate criminal history to DHS and that Claimant only has one prior drug-related felony conviction. DHS presented no evidence to establish that Claimant had two prior drug-related felony convictions. If the issue in the present case were framed as whether Claimant had two prior drug-related felonies, it could very reasonably be found that DHS failed to verify that Claimant should be disqualified from receiving FAP benefits for having two prior convictions.

Verification is not required when the client is clearly ineligible. BAM 130 (5/2012), p. 1. DHS should not be required to verify a FAP benefit eligibility factor when a client concedes the issue. In the present case, Claimant conceded that he had two prior drug-related felonies. DHS provided Claimant with an opportunity to clarify the apparent written concession and Claimant confirmed his written statements as accurate. DHS cannot be faulted for accepting Claimant at his word. It is found that DHS properly denied Claimant's FAP benefit application based on Claimant's statements that he had two prior drug-related felony convictions.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's FAP benefit application dated 7/30/12. The actions taken by DHS are AFFIRMED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 19, 2012

Date Mailed: September 19, 2012

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

CG/hw

cc:



