

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-68255
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: September 6, 2012
County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Kathleen H. Svoboda

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 6, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits based upon Claimant having been convicted of a felony for the use, possession, or distribution of controlled substances two or more times for offenses occurring after August 22, 1996?

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 submitted an application for FAP benefits dated June 5, 2012.
2. The Department denied Claimant's application on June 5, 2012.
3. A Notice of Case Action dated June 5, 2012, was sent to Claimant.
4. Claimant filed a hearing request dated July 25, 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 ACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, the basis for the denial of Claimant's application for FAP benefits was Claimant's two drug-related felony convictions for offences that occurred after August 22, 1996. Exhibit 1 admitted on behalf of the Department included a printout from the State of Michigan Department of Corrections Offender Tracking Information System (OTIS). Claimant had no objection to the admission of Exhibit 1. The OTIS report

confirmed that Claimant was convicted multiple times for Controlled Substance - Possession of Narcotic/Cocaine less than 25 grams. Claimant's relevant felony drug-related offenses occurred [REDACTED]. Claimant corroborated the information contained in the OTIS report through her testimony.

Relative to FIP and FAP benefits, BEM 203 provides as follows:

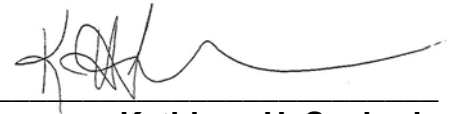
An individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times will be permanently disqualified if both offenses occurred after August 22, 1996. 2011 BEM 203, p. 2.

As the evidence shows Claimant, in fact, received two or more drug-related felony convictions for offenses that occurred after August 22, 1996, the Department acted in accordance with policy in denying her application for FAP benefits.

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 denied Claimant's application for FAP benefits based upon Claimant having been convicted of a felony for the use, possession, or distribution of controlled substances two or more times for offenses occurring after August 22, 1996.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.



Kathleen H. Svoboda
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 12, 2012

Date Mailed: September 12, 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

KHS/pf

cc:

