

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201338302
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: April 30, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on April 30, 2013. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly close Claimant's Food Assistance Program (FAP) due to a criminal justice disqualification?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits.
- (2) On February 21, 2013, Claimant submitted an application for Medical Assistance (MA) and State Disability Assistance (SDA). On the application Claimant marked that she had been convicted of a drug felony.
- (3) On March 13, 2013, Office of Inspector General (OIG) Regulation Agent (RA) [REDACTED] completed an investigation of Claimant's [REDACTED] [REDACTED] reported that Claimant had [REDACTED] [REDACTED] pending to close on April 1, 2013 and Claimant was sent notice of the determination.
- (4) On March 25, 2013, Claimant submitted a timely request for hearing.

CONCLUSIONS OF LAW

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department of Human Services Bridges Eligibility Manual (BEM) 203 (2013) page 2 states "An individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times in separate periods will be permanently disqualified if both offenses occurred after August 22, 1996."

During this hearing Claimant testified that she had been convicted 5 times but was not sure that all were [REDACTED]. When specifically asked, Claimant testified that on the first [REDACTED], she was sentenced to [REDACTED] s time [REDACTED] in [REDACTED] and [REDACTED]. Claimant also testified that she was sentenced to [REDACTED] on the [REDACTED], [REDACTED]. Claimant testified she did not specifically remember the other sentences but did not think they were [REDACTED]. It is noted that Claimant's criminal history shows all [REDACTED] were for "Controlled substance/possession of [REDACTED] or other [REDACTED] less than [REDACTED]. The [REDACTED], she was found [REDACTED] of [REDACTED]." Claimant could not have been [REDACTED] for an [REDACTED] ense if she had not been previously convicted of [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly closed Claimant's Food Assistance Program (FAP) due to a criminal justice disqualification.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/6/13

Date Mailed: 5/6/13

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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 48909-0

GFH/tb

cc:

