

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201343127  
Issue No: 3009  
Case No: [REDACTED]  
Hearing Date: May 29, 2013

DHS SSPC WEST

**ADMINISTRATIVE LAW JUDGE:** Suzanne D. Sonneborn

**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 received by the Department of Human Services (department) on April 22, 2013. After due notice, a telephone hearing was held on May 29, 2013. Claimant appeared by three-way conference call and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's Self Service Processing Center West office.

**ISSUE**

Whether the department properly determined Claimant's Food Assistance Program (FAP) eligibility?

**FINDINGS OF FACT**

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

1. On April 2, 2013, Claimant applied for FAP benefits and, in doing so, reported that he had received two felony drug convictions since August 22, 1996. (Department Exhibit 1)
2. On April 16, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that his application for FAP benefits had been denied for the reason that an individual convicted of a felony for the use, possession, or distribution of a controlled substance is disqualified from food assistance if the individual received two or more such convictions after August 22, 1996. (Department Exhibit 2)

3. On April 21, 2013, Claimant submitted a hearing request protesting the Department's denial of his application for FAP benefits.

### **CONCLUSIONS OF LAW**

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Food Assistance Program (FAP) was established pursuant to 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 400.30001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy indicates that a person who has been convicted of a felony for the use, possession, or distribution of controlled substances is disqualified from receiving FAP or Family Independence Program benefits if: (i) the terms of probation or parole are violated, and (ii) the qualifying conviction occurred after August 22, 1996. If an individual is not in violation of the terms of probation or parole, FIP benefits must be paid in the form of restricted payments and FAP benefits must be issued to an authorized representative. BEM 203. 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.

At the May 29, 2013 hearing, the department's representative, [REDACTED], testified that the Offender Tracking Information System (OTIS) maintained by the Michigan Department of Corrections indicates that Claimant has received two drug-related felony convictions after August 22, 1996 – specifically, on May 1, 2002 and on June 12, 2009. Claimant did not disagree with his criminal history as reported by [REDACTED].

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). Moreover, 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).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds, based on the competent, material, and substantial evidence presented during the hearing, Claimant is permanently disqualified from receiving FAP benefits pursuant to BEM 203 and the department therefore properly determined that Claimant was not eligible for FAP benefits.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that Claimant was not eligible for FAP benefits based on Claimant's two drug-related felony convictions. Accordingly, the department's actions in this regard are **UPHELD**.

IT IS SO ORDERED.

/s/ \_\_\_\_\_  
Suzanne D. Sonneborn  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: May 29, 2013

Date Mailed: May 29, 2013

**NOTICE:** Michigan Administrative Hearings 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 Order. MAHS 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 this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;

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- 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 System  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, MI 48909-07322

SDS/aca

cc:

