

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-45085
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 2, 2012
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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, an in-person hearing was held on July 2, 2013, at the Washtenaw County DHS office. Claimant, represented by [REDACTED] personally appeared and testified. Participants on behalf of Department of Human Services (Department) included Assistance Payment Supervisor [REDACTED] [REDACTED] and Assistance Payment Worker [REDACTED] [REDACTED].

ISSUE

Whether the Department properly closed Claimant's case for the Food Assistance Program (FAP) based on more than one drug-related felony conviction occurring after 8/22/96?

FINDINGS OF FACT

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

1. Claimant was receiving FAP benefits at the time of the hearing.
2. On April 10, 2013, the Department sent notice of the closure of Claimant's case.
3. Effective May 1, 2013, the Department closed Claimant's FAP case for having two felony drug convictions after 8/22/96.
4. On May 2, 2013, Claimant filed a hearing request, protesting the closure reduction.

CONCLUSIONS OF LAW

Department policies are found 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 1997 AACSR 400.3001-3015

During the hearing, Claimant admitted to two felony drug convictions. However, Claimant contended that because the two offenses were tried together, pled together and sentenced together, they were in effect the same offense. Claimant points out that the only distinguishable fact is the date of offense, August 24, 1997 and August 27, 1997.

According to department policy, 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. BEM 203, p 2 (6/1/13). The policy lists two examples for determining how the policy should be applied.

Example: Matthew Doe was found to have convictions for the use of a controlled substance on April 1, 2012 and for the distribution of a controlled substance on April 1, 2012. This would count as one conviction since it is on the same day. Policy for the 1st offense for a drug-related felony will be followed.

Example: Mary Smith was found to have a conviction for the possession of a controlled substance on February 1, 2012. Later, she was then convicted for the use and possession of a controlled substance on July 8, 2012. This would count as two convictions because they happened on different dates. Policy for a 2nd offense will be followed. BEM 203, p 2 (6/1/13).

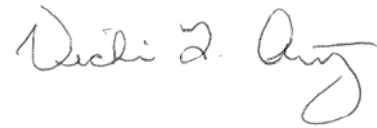
A review of the policy and examples shows that the only difference between the time periods is the distinguishable date of offense, which in this case, is two different dates. Therefore, the department properly followed policy concerning a second drug related felony.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly.

Accordingly, the Department's decision is **AFFIRMED** for the reasons stated on the record.

It is SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 10, 2013

Date Mailed: July 10, 2013

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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

2013-45085/VLA

VLA/las

cc:

