

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201357569
Issue No.: 2000, 3009
Case No.: [REDACTED]
Hearing Date: August 13, 2013
County: Medicaid Spectrum Pilot

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 three-way telephone hearing was held on August 13, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Medical Contact Worker).

ISSUE

Did the Department properly close Claimant's case for Food Assistance Program (FAP)?

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 received benefits for Food Assistance Program (FAP).
2. On May 1, 2013, the Department closed Claimant's case due to a criminal justice disqualification (Claimant reportedly had two or more drug related felonies since August 22, 1996).
3. On April 3, 2013, the Department sent Claimant notice of the closure.
4. On April 15, 2013, Claimant filed a hearing request, protesting the closure of the case.

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 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 1999 AC, Rule 400.3001 through Rule 400.3015.

According to BEM 203, people convicted of certain crimes, fugitive felons, and probation/parole violators are not eligible for assistance.

BEM 203 at page 2 provides that for FAP, “[a]n 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.” (With emphasis added).

Here, Claimant contends that he disagrees with the Department’s decision to close his FAP case, but conceded that he may have had more than one felony drug conviction after August 22, 1996. The Department, on the other hand, takes the position that the Michigan Department of Corrections (MDOC) Offender Tracking Information System (OTIS) demonstrates that Claimant has the felony convictions.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record, including the MDOC OTIS sheet for Claimant. According to the OTIS sheet, Claimant had 2 felony drug convictions: one from February 2005 and the other from March 2005. Claimant testified that in 2005 he sold drugs to an undercover law enforcement officer on two different occasions. The two felony drug convictions followed these offenses in 2005.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly closed Claimant’s case for FAP.

DECISION AND ORDER

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

Accordingly, the Department's FAP decision is **AFFIRMED** for the reasons stated above.

During the hearing, Claimant testified that he no longer wished to have a hearing concerning his Medical Assistance (MA) or "Medicaid" benefits. Accordingly, Claimant's request for hearing regarding MA is **DISMISSED**.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 14, 2013

Date Mailed: August 15, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

201357569/CAP

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAP/aca

cc:

