

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-7890  
Issue No(s): 3001  
Case No.: [REDACTED]  
Hearing Date: December 4, 2013  
County: DHS- MI-CAP/SSPC

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 4, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Hearing Coordinator.

**ISSUE**

Did the Department properly deny the Claimant's Food Assistance Program (FAP) application based on criminal disqualification?

**FINDINGS OF FACT**

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

1. On September 30, 2013, the Claimant applied for FAP.
2. On October 14, 2013, a Notice of Case Action was issued to the Claimant stating the FAP application was denied because he has been convicted of at least two drug related felonies since August 22, 1996. (Exhibit A, pages 4-8)
3. On October 21, 2013, the Claimant filed a request for hearing protesting the Department's action.

**CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, 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

In this case, the Department determined that the Claimant's FAP application must be denied because he was not eligible based on having two drug-related felony convictions after August 22, 1996. The Department confirmed that the Claimant had felony drug convictions January 10, 1997 and March 28, 2007. (Exhibit B, page 4)

The Claimant acknowledged that he has had two drug-related felony convictions. The Claimant testified he was a drug user in the past, but he has been clean for seven or eight years and continues to go to meetings twice per week. The Claimant noted he did time for the drug convictions, and questioned why he is being penalized again. The Claimant noted he never sold his prior Food Stamp benefits. The Claimant testified he receives Section 8 and SSI and needs the FAP benefits. The Claimant made a mistake in his life, but is trying to do right now and get established back in the community.

The evidence was uncontested that the Claimant has two drug-related felony convictions that occurred in 1997 and 2007. The Eligibility Specialist and this ALJ must apply the policy as written for the current FAP application. This ALJ has no authority to change or make any exceptions to the policy. The Claimant is not eligible for FAP due to having two drug-related felony convictions that occurred after August 22, 1996.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied the Claimant's FAP application based on criminal disqualification.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

/s/  
Colleen Lack  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: December 6, 2013

Date Mailed: December 9, 2013

**NOTICE OF APPEAL:** 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.

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).

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:

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

CL/hj

cc:

