

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201316928  
Issue No: 3009  
Case No: [REDACTED]  
Hearing Date: January 17, 2013  
Kalamazoo County DHS

**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 December 11, 2012. After due notice, a telephone hearing was held on January 17, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's Kalamazoo County 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 November 28, 2012, 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 November 30, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that his application for FAP benefits had been denied effective November 28, 2012 for the reason that an individual convicted of a felony for the use, possession, or distribution of controlled substance is disqualified from food assistance if the individual received two or more such convictions after August 22, 1996. (Department Exhibits 2-4)

3. On December 9, 2012, Claimant submitted a hearing request protesting the Department's denial of his application for FAP benefits. (Request for Hearing)

### **CONCLUSIONS OF LAW**

Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC 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 January 17, 2013 hearing, Claimant acknowledged that he has received two drug-related felony convictions after August 22, 1996.

Accordingly, based on the competent, material and substantial evidence presented during the hearing, the Administrative Law Judge finds that 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 effective November 28, 2012.

**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 effective November 28, 2012 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: January 22, 2013

Date Mailed: January 23, 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;
  - The failure of the ALJ to address other relevant issues in the hearing decision.

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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/cr

cc:

