

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201320873
Issue No: 3009
Case No: [REDACTED]
Hearing Date: January 31, 2013
Jackson 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 January 3, 2013. After due notice, a telephone hearing was held on January 31, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED] [REDACTED] an assistance payments supervisor with the department's Jackson 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 December 21, 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 December 31, 2012, 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 controlled substance is disqualified from food assistance if the individual received two or more such convictions after August 22, 1996. (Department Hearing Summary)
3. On January 3, 2013, Claimant submitted a hearing request protesting the Department's denial of his application for FAP benefits. (Department Exhibit E)

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 31, 2013 hearing, Claimant testified that he has received more than one drug-related felony conviction after August 22, 1996 but that he believed one of these convictions had been erased from his record. Claimant acknowledged however that he had no documentation to demonstrate that his criminal history record was different than that which he had reported in his application for FAP benefits.

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: February 1, 2013

Date Mailed: February 1, 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:

