

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-14182
Issue No(s): 3009
Case No.: [REDACTED]
Hearing Date: January 7, 2014
County: DHS-SSPC-West

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 January 7, 2014, 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] Eligibility Specialist.

ISSUE

Did the Department properly deny the Claimant's Food Assistance Program (FAP) application based on criminal justice 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 November 8, 2013, the Claimant applied for FAP.
2. On November 8, 2013, an interview was completed and the Claimant confirmed having four drug-related felony convictions, three of which were after August 22, 1996.
3. A Michigan Offender Tracking Information System report confirmed drug related felony convictions on January 5, 1997, July 10, 2001, and June 10, 2008.
4. On November 12, 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.
5. On November 20, 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 three drug-related felony convictions after August 22, 1996. During the November 8, 2013 interview the Claimant reported having four drug related felony convictions, three of which occurred after August 22, 1996. (Exhibit A, page 4) A Michigan Offender Tracking Information System report confirmed drug related felony convictions on January 5, 1997, July 10, 2001, and June 10, 2008. (Exhibit A, pages 5-5b)

The Claimant testified that he previously received FAP from 2004 through 2008 despite having two drug related felony convictions. The Claimant stated he just came home from a 60 month incarceration at the time the November 13, 2013 FAP application was filed. The Claimant is not working but is waiting on a disability determination. The Claimant has no source of income and was hoping he could get a bridge card.

The evidence was uncontested that the Claimant has three drug-related felony convictions that occurred January 5, 1997, July 10, 2001, and June 10, 2008. While it is not clear why the BEM 203 policy was not applied to the Claimant's prior FAP case from 2004 through 2008, 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 or more 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: January 8, 2014

Date Mailed: January 9, 2014

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

201414182/CL

CL/hj

cc:

