

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-29949
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: March 26, 2014
County: SSPC West

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 telephone hearing was held on March 26, 2014, from Lansing, Michigan. *Claimant personally appeared and provided testimony. Participants on behalf of Claimant included Claimant [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case due to a 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. Claimant applied for FAP benefits on January 28, 2014.
2. On February 14, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FAP effective January 28, 2014 due to ineligibility based on two convictions for drug-related felonies since August 22, 1996.
3. On February 27, 2014, the Department received Claimant's request for hearing challenging the FAP closure. (Exhibit 1 Page 4.)

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 Mich Admin Code, R 400.3001 through R 400.3015.

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

Per BEM 203,

“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.

“Example: Matthew Doe was found to have convictions for the use of a controlled substance on April 1, 2012 and for the distribution of a controlled substance on April 1, 2012. This would count as one conviction since it is on the same day. Policy for the 1st offense for a drug-related felony will be followed.

“Example: Mary Smith was found to have a conviction for the possession of a controlled substance on February 1, 2012. Later, she was then convicted for the use and possession of a controlled substance on July 8, 2012. This would count as two convictions because they happened on different dates. Policy for a 2nd offense will be followed.

According to the Office of Inspector General for the Department (Exhibit 1 Page 11), Claimant pled guilty to a felony drug charge on July 23, 2009, and to another felony drug charge on January 26, 2011. Claimant does not dispute that he has been convicted of those felonies.

Using the examples provided in BEM 203, Claimant was convicted of two drug-related felonies. The offenses occurred on different dates, both of which occurred after August 22, 1996. Therefore, he was properly subject to the felony drug-related-conviction disqualification.

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 terminated Claimant’s FAP benefits.

DECISION AND ORDER

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



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 27, 2014

Date Mailed: March 27, 2014

NOTICE: 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 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 error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

DTJ/las

cc:

