

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201428094
Issue No: 2010, 3009
Case No: [REDACTED]
Hearing Date: March 19, 2014
Genesee County DHS #2

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

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 March 19, 2014 from Lansing, Michigan. Claimant appeared and provided testimony. The department was represented by [REDACTED] a hearings facilitator with the department's Genesee County office.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) eligibility and Adult Medical Program (AMP) 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. Claimant was a recipient of AMP benefits at all times relevant to this hearing.
2. On December 2, 2013, Claimant applied for FAP benefits and, in doing so, reported that he had at least one felony drug conviction since August 22, 1996. (Department Exhibit 1)
3. On December 3, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that his application for FAP benefits had been denied effective December 2, 2013 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 2-3)
4. On January 7, 2014, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that, effective February 1, 2014, his AMP

benefits would be closed for the reason that his income amount exceeds the limit for the program. (Department Exhibits 4-6)

5. On February 18, 2014, Claimant submitted a hearing request protesting the Department's denial of his application for FAP benefits and closure of his AMP 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.

The Adult Medical Program (AMP) was established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department pursuant to MCL 400.10, *et seq.* Department policies are contained in the BAM, BEM, BRM, and the Reference Tables Manual (RFT).

Department policy provides that income eligibility exists when the program group's net income does not exceed the program group's AMP income limit. BEM 640. The AMP income limits are in RFT 236. A claimant with a group size of one has a maximum income limit of \$336.00. RFT 236. The department must use only available income. Available income means income which is received or can reasonably be anticipated.

Available income includes amounts garnished from income, joint income, and income received on behalf of a person by his representative. BEM 640. The department averages income received in one month which is intended to cover several months by dividing the income by the number of months it covers to determine the monthly available income. The average amount is considered available in each of the months. When determining income from the past month, the department uses the amount actually received in the past month. BEM 640.

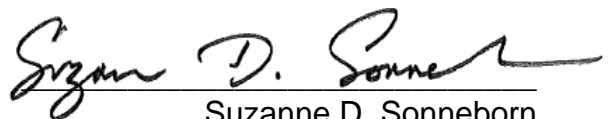
At the March 19, 2014 hearing, Claimant acknowledged that at the time of his December 2, 2013 application for FAP benefits, he had two drug-related felony convictions that occurred after August 22, 1996. Claimant further acknowledged that, effective February 1, 2014, his monthly income exceeded the \$336.00 income limit for eligibility for AMP benefits.

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 March 19, 2014 hearing, 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 December 2, 2013. This Administrative Law Judge further finds that the department properly determined that Claimant is not eligible for AMP benefits effective February 1, 2014 due to excess income.

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 December 3, 2013 based on Claimant's two drug-related felony convictions. This Administrative Law Judge further decides that the department properly determined that Claimant is not eligible for AMP benefits effective February 1, 2014 due to excess income. Accordingly, the department's eligibility determinations regarding the FAP and AMP programs are **UPHELD**.

IT IS SO ORDERED.



Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 20, 2014

Date Mailed: March 21, 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

SDS/hj

cc:

