

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-007786
Issue No.: FAP
Case No.: [REDACTED]
Hearing Date: September 17, 2014
County: Gladwin County DHS

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, an in-person hearing was held on September 17, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Hearing Coordinator, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly remove Claimant from the Food Assistance Program (FAP) group based on criminal disqualification resulting in a benefit reduction for the remaining group members?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was included in the FAP group for an ongoing benefit case.
2. On July 10, 2014, the Claimant participated in a Redetermination interview, in part, reporting she had two drug-related felony convictions, one in 2004 and the other in 2006.
3. On July 10, 2014, the Department issued a Notice of Case Action to the Claimant stating Claimant was not eligible for FAP, and the monthly FAP benefit for the remaining group members would decrease.
4. On July 17, 2014, 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

An individual with two or more drug related felony convictions in separate periods will be permanently disqualified if both offenses occurred after August 22, 1996. BEM 203

In this case, it was uncontested that Claimant had two drug related felony convictions, one in 2004 and the other in 2006. Claimant's testimony noted they were attempted offences, but acknowledged that they were drug related. The Department's policy is in accordance with 7 CFR § 273.11(c)(1)(m), which indicates that an individual is not eligible when the convictions have as an element the possession, use, or distribution of a controlled substance. Thus, even convictions for attempted drug related felony offences would lead to disqualification.


Claimant's testimony also addressed why she disagrees with the Department's policy to permanently disqualify individuals with drug related felony convictions. As noted during the hearing proceedings, this ALJ must review the Department's action under the existing policy, and does not have any authority to change or make any exceptions to the policy.

The evidence was uncontested that the Claimant has two drug-related felony convictions that occurred in 2004 and 2006. Accordingly, the Claimant is not eligible for FAP due to having two 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 removed Claimant from the FAP group based on criminal disqualification resulting in a benefit reduction for the remaining group members.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/19/2014**

Date Mailed: **9/19/2014**

CL/hj

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC:

