

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-35075
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: May 21, 2014
County: SSPC-MiCAP

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 three-way telephone hearing was held on May 21, 2014 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant's mother/Authorized Hearing Representative (AHR)) and [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Hearing Coordinator).

ISSUE

Did the Department properly deny Claimant's application for Michigan Combined Application Project (MiCAP) Food Assistance Program (FAP) benefits 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 MiCAP FAP benefits on April 15, 2014.
2. On April 15, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied Claimant's FAP application effective April 15, 2014 due to ineligibility because he "has been convicted of a least two drug related felonies since August 22, 1996, which results in a permanent disqualification for this type of assistance."
3. On April 29, 2014, Claimant's AHR requested a hearing to dispute the Department's decision.

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.

The Michigan Combined Application Project (“MiCAP”) is a food assistance demonstration project approved by the Food and Nutrition Service (FNS). MiCAP is a series of waivers that allows DHS to issue Food Assistance Program (FAP) benefits to Supplemental Security Income (SSI) individuals who qualify for this program. BEM 618, p 1 (4-1-2014).

According to BEM 203, p 1 (7-1-2013), people convicted of certain crimes, fugitive felons, and probation/parole violators are not eligible for assistance. BEM 203 at page 2 provides that for FAP, “[a]n 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.” (With emphasis added).

Here, Claimant concedes that he had two or more drug felonies involving controlled substance that occurred after August 22, 1996, but he stated that he believed one of the convictions was a misdemeanor. The Department, on the other hand, supplied the record with a copy of the Michigan Department of Corrections (MDOC) Offender Tracking Information System (OTIS) website which indicated that Claimant had two felony convictions for Controlled Substance-Delivery/Manufacture Marijuana under MCL 333.74012D3 in 2002 and 2007.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that Claimant is ineligible for MiCAP FAP benefits due to his two felony drug-related convictions. 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 Claimant's application for FAP.

DECISION AND ORDER

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

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 23, 2014

Date Mailed: May 23, 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.

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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

CAP/las

cc:

