

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

**IN THE MATTER OF:**

██████████  
██████████████████  
██████████████████

Reg. No.: 2014392  
Issue No.: 2000;3019  
Case No.: ██████████  
Hearing Date: October 24, 2013  
County: Wayne (57)

**ADMINISTRATIVE LAW JUDGE:** Zainab Baydoun

**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 October 24, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included █████ █████, Eligibility Specialist.

**ISSUE**

Did the Department properly process Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) benefits?

**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 was an ongoing recipient of MA and FAP benefits.
2. On ██████████, the Department sent Claimant a Notice of Case Action informing him that effective ██████████, his FAP case would be closing based on a permanent disqualification due to having two drug related felonies. (Exhibit 2)
3. On ██████████, Claimant submitted a hearing request disputing the Department's actions.

### **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).

#### **MA**

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The hearing was requested to dispute the Department's action taken with respect to Claimant's Medical Assistance (MA) benefits. Shortly after commencement of the hearing, Claimant testified that he understands and is satisfied with the actions taken by the Department and that he no longer had any issues to address with respect to his MA case. Claimant further stated that he did not wish to proceed with the hearing concerning his MA benefits. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request.

Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing is hereby **DISMISSED**.

#### **FAP**

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, people convicted of certain crimes, fugitive felons, and probation or parole violators are not eligible for assistance. BEM 203 (July 2013), p. 1. For FAP cases, 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, p.2.

In this case, in connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed. Claimant submitted a completed redetermination to the Department on [REDACTED]. (Exhibit 1). The Department testified that on his redetermination form, Claimant indicated that he had been convicted of a drug related felony occurring after [REDACTED]. (Exhibit 1). The Department stated that because Claimant checked the "yes" box for convicted more than once, it determined that he was no longer eligible for FAP benefits and initiated the closure of his FAP case, effective [REDACTED]. (Exhibits 1 and 2).

At the hearing, Claimant confirmed that he completed the redetermination form and submitted it to the Department. Claimant testified that he misread the form and that he thought it was asking if he had been convicted of more than one crime, not if he had been convicted more than once for a drug related felony, specifically. Claimant stated that he only had one drug related felony conviction after [REDACTED] for possession of a controlled substance and that was his only drug related felony conviction. The Department was unable to refute Claimant's testimony and did not present verification of the felony convictions that it determined Claimant had.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP case based on a permanent criminal justice disqualification for two drug related felony convictions.

### **DECISION AND ORDER**

Accordingly, Claimant's MA hearing request is DISMISSED and the Department's FAP decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the permanent disqualification from Claimant's FAP case;
2. Reinstate Claimant's FAP case effective [REDACTED];
3. Issue supplements to Claimant for any FAP benefits that he was eligible to receive but did not from [REDACTED] ongoing;
4. Notify Claimant in writing of its decision.



**Zainab Baydoun**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: October 28, 2013

Date Mailed: October 28, 2013

**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

ZB /tm

cc:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]