

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

IN THE MATTER OF:

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Reg. No.: 15-011357
Issue No.: 3009
Case No.: ██████████
Hearing Date: August 13, 2015
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 13, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████-██████████ hearing facilitator.

ISSUE

The issue is whether MDHHS properly denied Claimant's application for Food Assistance Program (FAP) benefits due to Claimant's previous felony drug convictions.

FINDINGS OF FACT

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

1. On unspecified dates after August 22, 1996, Claimant was convicted of two separate drug felonies.
2. On an unspecified date, Claimant applied for FAP benefits.
3. On an unspecified date, MDDHS denied Claimant's application due to Claimant's felony drug conviction history.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS

(formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing to dispute the denial of a FAP application. It was not disputed that MDHHS denied Claimant's application because Claimant had two previous drug felony convictions.

[Concerning FAP benefits], 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 (January 2015), p. 2. Claimant testimony conceded that she was convicted separately of drug felonies, with both convictions occurring after August 22, 1996.

Claimant testified that if she cannot be trusted by the State of Michigan, then she would use a representative who would insure her compliance with FAP regulations. Claimant also testified that she served her time in prison and that she should not be disqualified as she currently lives drug-free and lawfully. Claimant's argument is morally compelling.

It is not known why MDHHS chose to penalize drug-related felons rather than felons of more harmful and/or violent crimes. It is not known why MDHHS policy does not allow for any period of redemption after a second drug-related felony. It is not known why MDHHS chose to make it more difficult for ex-convicts who already face many prejudices and obstacles because of their ex-convict status. It is only known that the relevant MDHHS policy is unequivocal and has no exception. It is found that MDHHS properly denied Claimant's FAP application due to Claimant's drug related history.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Claimant's FAP application from an unspecified date due to Claimant's prior felony drug convictions. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **8/14/2015**

Date Mailed: **8/14/2015**

GC/tm

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]