

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-014742
Issue No.: 3001
Agency Case No.: [REDACTED]
Hearing Date: September 29, 2015
County: Calhoun (District 21)

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 29, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included the Claimant, [REDACTED], and his sister and guardian, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Hearing Facilitator [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly take action to close the Claimant's Food Assistance Program (FAP) case?

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 an ongoing recipient of monthly FAP benefits in the amount of \$ [REDACTED].
2. On July 28, 2015 the Department's Office of Inspector General reported to the Claimant's case worker that the Claimant has three drug-related felonies which have occurred after August 22, 1996.
3. On July 28, 2015, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that his FAP case would close effective September 1, 2015.
4. On August 7, 2015, the Claimant telephoned the Department to request a hearing protesting the closure of his FAP case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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. The Department (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.

Bridges Eligibility Manual (BEM) 203 (2015) p. 2, provides that an individual convicted of a felony for the use, possession or distribution of controlled substances two or more times in separate periods be permanently disqualified if both offenses occurred after August 22, 1996. This policy was updated in October 2011 to provide for this disqualification; and as such, the Claimant has been ineligible for benefits ever since October 2011 because his last conviction occurred in January 2007; and he has two drug related felony convictions previous to that.

In this case, it was not contested that the Claimant has three drug-related felony convictions all occurring after August 22, 1996. The Claimant's sister protested that the Claimant has very little income and needs that income for other expenses besides food. Furthermore, at the time the policy changed, the Claimant already had his three convictions and could do nothing about that. The Claimant's sister expressed that it was unfair that the policy would change and retroactively apply to 1996. The Claimant's sister was informed that the Administrative Law Judge has no equity jurisdiction. As it is not contested that the Claimant has three drug related felonies occurring after August 22, 1996, the Administrative Law Judge concludes that the closure of the Claimant's FAP case is in accordance with Departmental policy.

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 took action to close the Claimant's FAP case.

DECISION AND ORDER

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



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **10/1/2015**

SEH/jaf

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:

