

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

**IN THE MATTER OF:**

██████████  
██████████  
██████████

MAHS Reg. No.: 15-016869  
Issue No.: 3001;3009  
Agency Case No.: ██████████  
Hearing Date: November 02, 2015  
County: Wayne-District 31

**ADMINISTRATIVE LAW JUDGE: Zainab Baydoun**

**HEARING DECISION**

Following Petitioner'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 November 2, 2015, from Detroit, Michigan. Petitioner appeared for the hearing and was represented by his Authorized Hearing Representative, ██████████ ██████████. The Department was represented by ██████████, Eligibility Specialist.

**ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) case on the basis that he was permanently disqualified from the FAP due to being convicted of two drug related felonies?

**FINDINGS OF FACT**

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

1. Petitioner was an ongoing recipient of FAP benefits.
2. On August 31, 2015, the Department sent Petitioner a Notice of Case Action informing him that effective October 1, 2015, his FAP case would be closed on the basis that he has been convicted of two drug related felonies and is ineligible for FAP benefits. (Exhibit A, pp. 15-16)
3. On September 9, 2015, Petitioner requested a hearing disputing the Department's actions.

### **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.

Additionally, people convicted of certain crimes and probation or parole violators are not eligible for assistance. BEM 203 (January 2015), p. 1. Specifically with respect to 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, the Department testified that it received correspondence from the Office of Inspector General (OIG) indicating that Petitioner has been convicted of two drug related felonies, each occurring after August 22, 1996. (Exhibit A, pp. 1-2). On August 31, 2015, the Department sent Petitioner a Notice of Case Action informing him that effective October 1, 2015, his FAP case would be closed because he was permanently disqualified from the FAP as a result of having two drug related felony convictions. (Exhibit A, pp.15-16). In support of its contention that Petitioner was ineligible for FAP based on a criminal justice disqualification, the Department presented a Register of Actions from the [REDACTED] Case No. [REDACTED] and a Register of Actions from the Wayne County Circuit Court Case No. [REDACTED] which were reviewed at the hearing. (Exhibit A, pp. 3-14). A review of the Registers of Actions shows that Petitioner was convicted by guilty plea of two separate felony drug related offenses in Wayne County, each occurring after August 22, 1996. (Exhibit A, pp. 3-14). Petitioner confirmed that the date of birth and other identifying information included on the Department's documents was correct and acknowledged that he recalled the conviction related to the 2004 case, but could not remember the 2007 conviction. Petitioner did not present any documentation or supporting evidence to support his assertion that he was not convicted of at least two drug related felonies.

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 closed Petitioner's FAP case effective October 1, 2015, as he was subject to a permanent disqualification from receipt of FAP benefits.

**DECISION AND ORDER**

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



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**Zainab Baydoun**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **11/6/2015**

Date Mailed: **11/6/2015**

ZB / tlf

**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]  
[REDACTED]