

**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.: 15-017075
Issue No.: 1009, 3009
Agency Case No.: [REDACTED]
Hearing Date: [REDACTED]
County: Delta County MDHHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 [REDACTED], from Lansing, Michigan. [REDACTED], the Claimant, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager; and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly require an Authorized Representative for Claimant's Food Assistance Program (FAP) benefits based on a drug related felony conviction?

Did the Department properly authorize restricted payments for Claimant's Family Independence Program (FIP) benefits based on a drug related felony conviction?

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 [REDACTED], Claimant completed an Assistance Application to apply for FIP and to add his daughter to his FAP case. (Department Exhibits A and B)
2. On [REDACTED], the Department notified Claimant that he would have to have an authorized representative for FAP because he had a prior drug related felony conviction. (Department Exhibit B)
3. On [REDACTED], Claimant selected an authorized representative. (Department Exhibit B)

4. On [REDACTED], FIP was certified. (Department Exhibit B)
5. On [REDACTED] and [REDACTED], the FAP member add and increase was certified for [REDACTED] forward. (Department Exhibit B)
6. On [REDACTED], Claimant verbally requested a hearing regarding having an authorized representative for FAP. (Department Exhibit B)
7. On [REDACTED] Claimant filed a written hearing request contesting the FIP action and the mandatory payee representative. (Request for Hearing)

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

BEM 203, (January 1, 2015), p. 2 addresses criminal justice disqualifications, including a first offense drug-related felony conviction:

DRUG-RELATED FELONY

FIP and FAP

1st Offense

A person who has been convicted of a felony for the use, possession, or distribution of controlled substances is disqualified if:

- Terms of probation or parole are violated, **and**

- The qualifying conviction occurred after August 22, 1996.

If an individual is not in violation of the terms of probation or parole:

- FIP benefits must be paid in the form of restricted payments.
- Receipt of FAP benefits requires an authorized representative.

In this case, Claimant credibly testified that he has always reported his drug-related felony conviction to the Department. Claimant noted that he has previously received benefits and has never been required to have an authorized representative.

It appears that the Department previously failed to properly enter Claimant's drug-related felony conviction into the Department's computer system, resulting in FAP benefits being issued to Claimant without an authorized representative. (See Department Exhibit B)

It was uncontested that Claimant has a 2009 drug-related felony conviction. At the time of the [REDACTED], FIP application and FAP member add, the Department properly took actions to bring Claimant's case into compliance with the above cited BEM 203 policy. Under this policy, the Department must authorize FIP in the form of restricted payments and require an authorized representative for the FAP benefits.

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 authorized FIP in the form of restricted payments and required an authorized representative for the FAP benefits based on a Claimant having a drug related felony conviction.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

[REDACTED]

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:

