

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-012593
Issue No.: 3009
Case No.: [REDACTED]
Hearing Date: August 24, 2015
County: WAYNE-DISTRICT 49

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 24, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included [REDACTED] Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective July 1, 2015, ongoing, due to a criminal justice disqualification?

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 FAP benefits.
2. On or around [REDACTED] and [REDACTED], Claimant had been convicted of two or more drug-related felonies in separate periods after August 22, 1996. See Exhibit A, pp. 1 and 3-6.
3. On [REDACTED], the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits would close effective [REDACTED], ongoing, due to Claimant being convicted of at least two drug-related felonies since August 22, 1996. See Exhibit A, pp. 7-8.

4. On [REDACTED], Claimant filed a hearing request, protesting his FAP closure. See Exhibit A, p. 2.

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.

People convicted of certain crimes and probation or parole violators are not eligible for assistance. BEM 203 (January 2015), 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 and see also BEM 212 (July 2014), pp. 8-9 (A disqualified person is one who is ineligible for FAP because the person refuses or fails to cooperate in meeting an eligibility factor. Individuals are disqualified for a drug-related felony, 2nd offense).

It was not disputed by either party that on or around [REDACTED] [REDACTED] Claimant had been convicted of two or more drug-related felonies in separate periods after August 22, 1996. See Exhibit A, pp. 1 and 3-6. As part of the evidence record, the Department presented Claimant's offender profile from the Michigan Department of Corrections' Offender Tracking Information System (OTIS). See Exhibit A, pp. 5-6. A review of the OTIS report showed that Claimant had only one convicted drug-related felony in 2007. See Exhibit A, pp. 5-6. Nevertheless, Claimant did not dispute that he had been convicted of two or more drug-related felonies in separate periods after August 22, 1996. Because Claimant had two or more drug-related felonies that occurred in separate periods after August 22, 1996, the Department acted in accordance with Department policy when it closed Claimant's FAP benefits effective [REDACTED], ongoing. BEM 203, p. 2 and BEM 212, pp. 8-9.

DECISION AND ORDER

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 Claimant's FAP benefits effective [REDACTED].

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



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/25/2015**

Date Mailed: **8/25/2015**

EF / hw

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:

