

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-014610  
Issue No.: 3001  
Case No.: [REDACTED]  
Hearing Date: September 30, 2015  
County: WAYNE-DISTRICT 57

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 September 30, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], and [REDACTED], Assistance Payments Supervisor.

**ISSUE**

Did the Department properly close the Claimant's Food Assistance (FAP) for having two or more drug related felony 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. The Claimant was an ongoing FAP recipient, and pursuant to an Office of Inspector General (OIG) investigation, the Department was advised by the OIG that the Claimant had three or more drug related felony convictions since August 22, 1996. Exhibits 2 and 3
2. The Department requested the Office of Inspector General obtain, from the Judicial Warehouse Data, the Claimant's criminal record. The Judicial Warehouse record indicated that the Claimant had three drug related felony convictions on the following dates: [REDACTED] (plead guilty to delivery/manufacture of controlled substance (Felony)); [REDACTED] (plead guilty to delivery/manufacture of controlled substance (Felony)); [REDACTED] (plead guilty to controlled substance delivery/manufacture (Felony)). Exhibit 2 p. 1-3

3. The Claimant requested a timely hearing on [REDACTED], protesting the closure of his Food Assistance 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.

Additionally, the issue in this case is whether the Department properly closed the Claimant's Food Assistance (FAP) case due to 3 prior drug related felony convictions. Department policy found in BEM 203 provides:

#### **Drug Related Felony 2nd Offense**

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 ((7/1/14), pp.2.

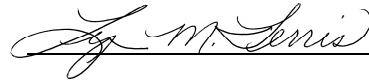
At the hearing, the Claimant's criminal conviction record was presented and admitted into evidence without objection from the Claimant (who did not dispute the three convictions which were reviewed during the hearing). Therefore, based upon the evidence presented by the Department, it is determined that the Department properly closed the Claimant's Food Assistance case.

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 the Claimant's Food Assistance case due to three prior drug related felonies after August 22, 1996.

### **DECISION AND ORDER**

Accordingly, the Department's decision is

**AFFIRMED.**



**Lynn M. Ferris**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **9/30/2015**

Date Mailed: **9/30/2015**

LMF / 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:

