

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

IN THE MATTER OF:



MAHS Reg. No.: 15-022995
Issue No.: 3009
Agency Case No.:
Hearing Date: January 27, 2016
County: MARQUETTE

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 January 27, 2016, from Lansing, Michigan. The Petitioner was represented by himself. The Department was represented by Family Independence Manager

ISSUE

Did the Department properly deny Claimant's November 25, 2015 Food Assistance Program (FAP) application?

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 November 25, 2015, Claimant submitted an application for Food Assistance Program (FAP) benefits.
2. On November 25, 2015, Claimant was sent a Notice of Case Action (DHS-1605) which stated his Food Assistance Program (FAP) application was denied due to a permanent criminal justice disqualification under Bridges Eligibility Manual (BEM) 203.
3. On December 14, 2015, Claimant submitted a hearing request.

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 Criminal Justice Disqualifications (10-1-2015) provides:

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.

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.

Example: Matthew Doe was found to have convictions for the use of a controlled substance on April 1, 2012 and for the distribution of a controlled substance on April 1, 2012. This would count as one conviction since it is on the same day. Policy for the 1st offense for a drug-related felony will be followed.

Example: Mary Smith was found to have a conviction for the possession of a controlled substance on February 1, 2012. Later, she was then convicted for the use and possession of a controlled substance on July 8, 2012. This would count as two convictions because they happened on different dates. Policy for a 2nd offense will be followed.

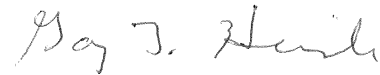
Claimant does not dispute that he was arrested on two separate dates for drug charges, September 21, 2006 and March 4, 2007. Neither does he dispute that he was convicted of two separate drug related felonies on April 16, 2008. One of the convictions on April 16, 2008 was for his actions on September 21, 2006. The other conviction on April 16, 2008 was for his actions on March 4, 2007.

Claimant argues that it is only one offense because the two convictions occurred on the same day. Claimant is incorrect. There is an example cited above regarding two separate convictions on one day. Mr. [REDACTED] two convictions in the example both derive from his activity on a single day. That is different from Claimant whose two separate convictions on one day are the result of his actions on two separate dates. The Department has correctly applied the policy to Claimant's circumstances.

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 denied Claimant's November 25, 2015 Food Assistance Program (FAP) application.

DECISION AND ORDER

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



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **2/2/2016**

GH/nr

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:

