



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: April 27, 2016
MAHS Docket No.: 16-003809
Agency No.: 1 [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 April 27, 2016, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly deny the Petitioner's application for Food Assistance Program (FAP) due to two 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 Petitioner applied for FAP on March 9, 2016.
2. The Department issued a Notice of Case Action dated March 9, 2016, effective April 1, 2016, closing the Petitioner's FAP case due to two prior drug-related felony convictions resulting in a lifetime disqualification. Exhibit 1.
3. The Petitioner at the hearing admitted that he had been previously convicted of two prior drug-related felonies.

4. The Petitioner requested a timely hearing on April 25, 2016, protesting 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.

In this case, the Department denied the Petitioner's March 9, 2016, FAP application due to his prior conviction for two drug-related felonies. The Department policy found BEM 203 provides:

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. BEM 203, (October 1, 2015), p. 2.

Because in this case the Petitioner did not dispute the fact that he had two drug-related felonies as described by the Department occurring in 2008 and 2009, the fact that the Department did not present the actual Otis inquiry provided by the OIG does not change the outcome in this case as the Petitioner to his credit admitted the Department's facts were correct with respect to its determination that Petitioner had two drug-related felony convictions.

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/denied the Petitioner's Food Assistance Program application due to his two drug-related felony convictions.

DECISION AND ORDER

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

LMF/jaf



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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Petitioner

[REDACTED]

cc:

[REDACTED]