



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 18, 2016
MAHS Docket No.: 16-004756
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 May 11, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective April 1, 2016, 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. Petitioner was an ongoing recipient of FAP benefits.
2. On [REDACTED], Petitioner submitted a signed redetermination (DHS-1010) in which she check marked "yes" to the question of whether she has been convicted of a drug-related felony occurring after August 22, 1996, and "yes" to the question if she had been convicted more than once. See Exhibit A, pp. 4-8.
3. On [REDACTED], the Department conducted a scheduled telephone interview with Petitioner in which she again acknowledged to the specialist that she had been convicted of at least two drug-related felonies, even though the Department

could not locate any documentary and/or data showing that she had any such drug-related felony convictions. See Exhibit A, pp. 10-11.

4. Relying solely on Petitioner's admission that she had been convicted of at least two drug-related felonies since August 22, 1996, on [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective [REDACTED] ongoing, due to her criminal justice disqualification. See Exhibit A, pp. 13-16.
5. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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 (October 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.

At the hearing, Petitioner testified that she had not been convicted of two or more drug-related felonies that occurred in separate periods after August 22, 1996. This is contradictory to what Petitioner stated in her redetermination and her telephone interview. See Exhibit A, pp. 8-10. In fact, both Petitioner and the Department presented documents from the [REDACTED] Department of Corrections and [REDACTED] Sheriff's Office showing no history of any drug-related convictions. See Exhibit A, p. 11 and Exhibit 1, p. 1. When the undersigned asked Petitioner why she is now stating she was not convicted of any drug-related felonies, her argument appeared to be that (i) she misunderstood the question; and (ii) she believed that she had two or more drug-related misdemeanor convictions.

Based on the foregoing information and evidence, the undersigned finds that the Department acted in accordance with Department policy when it closed Petitioner's FAP benefits effective [REDACTED]. Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2015), p. 8. This includes completion of necessary forms. BAM 105, p. 8. Clients must completely and truthfully answer all questions on forms and in interviews. BAM 105, p. 8 and see also BAM 210 (January 2016), p. 15 (to the complete the redetermination process, the Department reviews, documents, and verifies eligibility factors as required). In the present case, Petitioner now argues that she had not been convicted of two or more drug-related felonies. However, the undersigned finds that the Department's decision to close her benefits at the time were in accordance with policy based on the answers she provided to the Department at the time. See BAM 105, p. 8. As such, based on Petitioner's own admission both verbally and in writing that she had been convicted of two or more drug-related felonies, the Department acted in accordance with Department policy when it closed Petitioner's FAP benefits effective [REDACTED]. See BAM 105, p. 8; BAM 210, p. 15; and BEM 203, pp. 1-2.

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 Petitioner's FAP benefits effective [REDACTED].

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

EF/hw



Eric Feldman

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]

[REDACTED]

Petitioner

[REDACTED]