



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: July 1, 2016  
MAHS Docket No.: 16-007049  
Agency No.: [REDACTED]  
Petitioner: [REDACTED].

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

### **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 June 22, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility due to multiple 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. Petitioner was an ongoing FAP benefit recipient.
2. Petitioner was convicted of multiple drug felonies after 1996.
3. On an unspecified date, MDHHS determined Petitioner was not eligible for FAP benefits, effective June 2016, due to Petitioner's multiple drug felony convictions.
4. On [REDACTED], Petitioner requested a hearing to dispute the termination of FAP benefits.

### CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP eligibility, effective June 2016. MDHHS did not present a written notice of case action though it was not disputed the FAP termination was due to Petitioner allegedly committing multiple drug-related felonies since August 22, 1996.

[For FAP benefits,] people convicted of certain crimes and probation or parole violators are not eligible for assistance. BEM 203 (October 2015), p. 1. 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. *Id.*

MDHHS presented a copy of public records from the Michigan Department of Corrections (Exhibit 1, pp. 5-6). The records provided a summary of Petitioner's past criminal convictions.

Petitioner's criminal history included a sentence of "Controlled Substance Delivery/Manf. Nar/Coc < 50 grams." The offense date was noted to be [REDACTED] and a sentence date of [REDACTED], was stated. The maximum sentence was stated to be 2 years.

Petitioner's criminal history also included a sentence of "Controlled Substance Delivery/Manufacture Marijuana" was listed. An offense date of [REDACTED], was listed. The sentence date was listed as [REDACTED]. The maximum sentence was stated to be 2 years.

A felony is understood to require a sentence longer than one year. Both of Petitioner's past crimes were felonies with potential sentences of longer than one year.

The jurisdiction of administrative review is limited to determining if MDHHS followed policy, not whether MDHHS policy is rational or purposeful. Thus, it is not relevant that presented evidence did not verify any wrongdoing by Petitioner in the previous few years. It is not relevant that MDHHS policy capriciously fails to penalize persons convicted of more violent crimes. It is not relevant that MDHHS allows no possibility of redemption for drug felons to requalify for FAP eligibility. It is not relevant that the MDHHS policy could theoretically impel convicted drug felons to commit future crimes.

Based on presented evidence, MDHHS established that Petitioner was convicted of separate drug-related felonies after 1996. Accordingly, the termination of FAP eligibility was proper.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility, effective June 2016, due to Petitioner's multiple drug-related felony convictions. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



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**Christian Gardocki**

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]