



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 22, 2016
MAHS Docket No.: 16-008100
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. 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 July 13, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). 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 July 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 or about [REDACTED], Petitioner was convicted of a drug-related felony. See Exhibit A, pp. 7-8.
3. On or about [REDACTED], Petitioner was convicted of a drug-related felony. See Exhibit A, pp. 9-10.
4. On or about [REDACTED], Petitioner submitted an application in which he check marked "no" to the question of whether he has been convicted of a drug-related

felony occurring after August 22, 1996, and “no” to the question if he had been convicted more than once. See Exhibit A, 12-14.

5. On [REDACTED], Petitioner submitted a signed redetermination in which he check marked “no” to the question of whether he has been convicted of a drug-related felony occurring after August 22, 1996, and “no” to the question if he had been convicted more than once. See Exhibit A, pp. 27-32.
6. On or about [REDACTED], a FAP telephone interview was conducted with Petitioner in which he informed the caseworker that he had one drug-related felony approximately 10-years-ago and he requested that his brother be his Authorized Representative (AR). See Exhibit A, p. 33 (Case Comments – Summary).
7. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits would close effective [REDACTED] ongoing, due to his criminal justice disqualification. See Exhibit A, pp. 34-35.
8. 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 argued and/or asserted the following: (i) he acknowledged that he had been convicted of two drug-related felonies that occurred in separate periods after August 22, 1996; (ii) he had been receiving ongoing FAP benefits and then all of a

sudden, they seized; (iii) he was not aware of the drug-related felony policy; and (iv) he would like his FAP benefits reinstated.


Based on the foregoing information and evidence, the undersigned finds that the Petitioner has been convicted of two or more drug-related felonies in separate periods after August 22, 1996. See Exhibit A, pp. 5-10. As part of the evidence record, the Department presented court documents showing that on or around [REDACTED], and [REDACTED], Petitioner had been convicted of two or more drug-related felonies in separate periods after August 22, 1996. See Exhibit A, pp. 7-10. Because Petitioner had two or more drug-related felonies that occurred in separate periods after August 22, 1996, the Department acted in accordance with Department policy when it closed Petitioner's FAP benefits effective [REDACTED], ongoing. BEM 203, p. 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**.

EJF/hw



Eric J. 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]