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: December 22, 2016 MAHS Docket No.: 16-015571 Agency No.: Petitioner:

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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, an in person hearing was held on December 15, 2016, from Detroit, Michigan. The Petitioner was present and represented by **Exercise**. The Department of Health and Human Services (Department) was represented by **Exercise**, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's FAP benefits effective

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 recipient.
- 2. On **Determined**, the Office of Inspector General (OIG) sent a referral to Petitioner's worker which indicated that Petitioner had been convicted of two drug related felonies since August 22, 1996.
- 3. On the Department sent Petitioner a Notice of Case Action which notified Petitioner that his FAP benefits would close effective

4. On Department's actions. Petitioner filed a Request for Hearing disputing the

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.

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.

In this case, the Department testified that it received a referral from the OIG which indicated that Petitioner had been convicted of two or more drug related felonies. The Department indicated that as a result of this information, it sent Petitioner a Notice of Case Action on the second second which informed Petitioner that his FAP benefits would close effective test.

Petitioner confirmed that he plead guilty to a drug-related felony on was based upon Petitioner explained that the 2010 charge was based upon prescription medication and the second charge related to narcotics found in the possession of his passenger. The undersigned has no power reopen the criminal case or change the status of the convictions. Because Petitioner has been convicted of two drug-related felonies since August 22, 1996, he is permanently disqualified from receiving FAP benefits. As such, the Department properly closed Petitioner's FAP benefits effective

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

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

JM/hw

laquel UMC

Jacquelyn A. McClinton 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

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DHHS

Petitioner

AHR for Petitioner



