



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 24, 2016
MAHS Docket No.: 16-001164
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 March 17, 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 [REDACTED], MDHHS determined Petitioner was not eligible for FAP benefits, effective February 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 February 2016. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-4) dated December 30, 2015, which stated the basis for termination was that Petitioner was convicted of at least two 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 Register of Actions (Exhibit 1, p. 6) from the Third Judicial Circuit of Michigan. A disposition of "Controlled Substance- Delivery/manufacture (narcotic or cocaine) Less than 50 gr" dated [REDACTED], was noted.

MDHHS presented a Register of Actions (Exhibit 1, pp. 7-8) from the Third Judicial Circuit of Michigan. A disposition of "Controlled Substance- Delivery/manufacture (narcotic or cocaine) Less than 50 gr" dated [REDACTED], was noted.

A felony is understood to require a sentence longer than one year. Consideration was given to finding that the charges against Petitioner were not felonies because Petitioner's actual sentence was for less than a year. This consideration was rejected because the potential sentence (not the actual sentence) defines which crimes are felonies. Petitioner's crimes are potentially punishable for up to 4 years (see MCL 333.7403 (2)(a)(v)).

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 Petitioner's only known crime was for non-violent offenses. It is not relevant that MDHHS policy capriciously fails to penalize violent felons. It is not relevant that MDHHS allows no possibility of redemption for drug felons to requalify for FAP eligibility.

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 February 2016, due to Petitioner's multiple drug-related felony convictions. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



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]