



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: April 11, 2016
MAHS Docket No.: 16-002701
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 April 6, 2016, from Detroit, Michigan. The Petitioner was represented by Mark Gallagher, Petitioner; and his witness/aunt, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator; and [REDACTED], Regulation Agent from the Office of Inspector General (OIG).

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 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. 3-6.
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits would close effective [REDACTED], ongoing,

due to the Petitioner being convicted of at least two drug-related felonies since August 22, 1996. See Exhibit A, pp. 14-17.

4. On [REDACTED], Petitioner filed a hearing request, protesting his FAP closure. See Exhibit A, p. 2.

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.

In the present case, the Department/OIG argued that Petitioner should be permanently disqualified from receiving FAP benefits because he had been convicted of two or more drug-related felonies in separate periods after August 22, 1996. See Exhibit A, pp. 3-6.

In response, Petitioner and his witness argued that he was not convicted of two or more drug-related felonies. As to the first alleged felony drug conviction, Petitioner and his witness indicated that he only pled guilty to an attempted possession of a controlled substance. As to the second alleged felony drug conviction, Petitioner and his witness indicated that he only pled guilty to a probation violation, but not to the actual drug charge.

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. 1 and 3-6. 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. 3-6. 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**.

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]