



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 21, 2016
MAHS Docket No.: 16-002899
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, a telephone hearing was held on April 13, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's FAP benefits effective February 1, 2016 due to criminal 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 a FAP recipient.
2. On [REDACTED], Petitioner completed a Redetermination in which he stated that he had not been convicted of a drug related offense since August 22, 1996.
3. On [REDACTED] Petitioner again completed a Redetermination in which he stated that he had not been convicted of a drug related offense since August 22, 1996

4. The Department received information that Petitioner had been convicted of two drug related felonies since August 22, 1996.
5. On [REDACTED] 6, the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits would close effective [REDACTED] due to criminal disqualification.
6. On [REDACTED] Petitioner filed a Request for Hearing disputing the Department's actions.

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.

At the hearing, the Department testified that Claimant's FAP case was closed due to a criminal justice disqualification. People convicted of certain crimes and probation or parole violators are not eligible for assistance. BEM 203 (October 2015), p. 1. Additionally, 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

Petitioner acknowledged that he had been convicted of one drug related felony in 2001 but denied any subsequent conviction. The Department presented a Register of Action revealing a conviction in 2001 and a second conviction in 2006. The 2006 conviction listed Petitioner's complete name and a detailed account of the proceedings which included a no contest plea to a felony drug offense.

In 2014 and 2015, Petitioner completed Redeterminations. On both Redeterminations, Petitioner stated that he had not been convicted of a drug related felony since August 22, 1996. This was untrue. Accordingly, Petitioner's testimony that he was only convicted of one drug related felony since August 22, 2016 is found to lack veracity. Additionally, Petitioner provided no evidence that he was not confined to prison as a result of the 2006 conviction.

The Department initially alleged that Petitioner had been convicted of drug related felonies in 2001, 2006, 2015 and 2016. However, the Department failed to provide evidence of any convictions occurring in 2015 and 2016. Notwithstanding this, under Department policy, two convictions are sufficient for permanent disqualification. The Department has established that Petitioner was convicted of a drug related felony in 2001 and 2006. Therefore, it is found that Petitioner is subject to a permanent disqualification as it relates to FAP benefits.

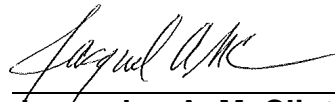
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's FAP benefits effective March 1, 2016 due to criminal disqualification.

DECISION AND ORDER

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

Petitioner is subject to a permanent disqualification as it relates to FAP benefits.

JM/hw



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

DHHS

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]