



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Mailed: January 18, 2017
MAHS Docket No.: 16-018688
Agency No.: [REDACTED]
[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 January 17, 2017, from Detroit, Michigan. The Petitioner was present at the proceeding and represented himself. 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 December 1, 2016?

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. Exhibit A, p. 7.
3. On or about [REDACTED], Petitioner was convicted of a drug-related felony. Exhibit A, p. 7.
4. On October 25, 2016, the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits would close effective December 1, 2016,

ongoing, because the group member does not meet program requirements and he failed to comply with the verification requirements. Exhibit A, pp. 5-6.

5. Petitioner is 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. Exhibit A, p. 7.
6. On December 8, 2016, Petitioner filed a hearing request, protesting the Department's action. 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.

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 (October 2015), p. 2.

In the present case, Petitioner acknowledged that he had been convicted of two drug-related felonies that occurred in separate periods after August 22, 1996. Petitioner, though, testified that he believed his [REDACTED] [REDACTED] conviction had been expunged, but was not sure. Petitioner failed to provide any evidence or documentation showing that his conviction had been expunged. Instead, the Department presented credible evidence and testimony establishing that Petitioner had been convicted of two drug-related felonies in separate periods after August 22, 1996, which resulted in permanent disqualification from receiving FAP benefits effective December 1, 2016. Exhibit A, pp. 5-7 (Front-End Eligibility (FEE) report from the Office of Inspector General). It should be noted that the Notice of Case Action dated October 25, 2016 failed to indicate the closure notice was based on a criminal disqualification. See Exhibit A, pp. 5-6. Nevertheless, this is harmless error by the Department because Petitioner ultimately was not eligible for FAP benefits due to the two or more drug-related felony policy. See BEM 203, p. 2.


Accordingly, 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 December 1, 2016, 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 properly closed Petitioner's FAP benefits effective December 1, 2016.

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

EF/tm



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]
[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]

CC: [REDACTED]
[REDACTED]