



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 20, 2017
MAHS Docket No.: 17-002104
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on March 15, 2017, from Lansing, Michigan. The Petitioner was represented by himself. The Department was represented by [REDACTED] Assistance Payments Supervisor, and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly closed Petitioner's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On January 13, 2017, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 2-13.
2. On January 19, 2017, the Department notified Petitioner that he was approved for Food Assistance Program (FAP) benefits. Exhibit A, pp 15-18.
3. Petitioner was convicted of Delivery/Manufacture of a Controlled Substance Less Than 50 Grams with an offense date of December 2, 2009. Exhibit A, p 21.
4. Petitioner was convicted of Delivery/Manufacture of a Controlled Substance Less Than 50 Grams with an offense date of February 18, 2004. Exhibit A, p 22.

5. On February 1, 2017, the Department notified Petitioner that his Food Assistance Program (FAP) benefits would close effective March 1, 2017. Exhibit A, pp 24-27.
6. On February 7, 2017, the Department received Petitioner's request for a hearing protesting the closure of his Food Assistance Program (FAP) benefits. Exhibit A, pp 28-29.

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. Department of Health and Human Services Bridges Eligibility Manual (BEM) 203 (October 1, 2015), p 2.

On January 13, 2017, the Department received Petitioner's application for FAP benefits. On January 19, 2017, the Department approved Petitioner for expedited FAP benefits pending verification that he met all of the criteria to receive FAP benefits. Petitioner had reported to the Department that he was unsure of how many drug-related convictions he had, but the Department would later discover that Petitioner is not eligible for FAP benefits because he has been convicted of more than one drug-related felony with each offense occurring after August 22, 1996. Therefore, the Department closed Petitioner's FAP benefits effective March 1, 2017.

Petitioner does not dispute his record of drug-related felonies. Petitioner argued that the policy is unfair to allow those convicted of non-drug related felonies to receive FAP benefits while denying FAP benefits to those under circumstances such as his own.

The Petitioner's grievance centers on dissatisfaction with the Department's current policy. The Petitioner's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than


judicial power, and restricts the granting of equitable remedies. Michigan Mutual Liability Co. v Baker, 295 Mich 237; 294 NW 168 (1940).

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 Food Assistance Program (FAP) benefits after obtaining verification that he is ineligible due to his drug-related felony convictions.

DECISION AND ORDER

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

KS/nr



Kevin Scully
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]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]