



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: [REDACTED] May 22, 2017  
MAHS Docket No.: 17-004477  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Carmen G. Fahie

### **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 [REDACTED], from [REDACTED], Michigan. Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Specialist, and [REDACTED], Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits based on Petitioner self-reporting 2 drug related felonies since August 22, 1996?

### **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 applied for FAP benefits in August of 2016, where he self-reported 2 drug related felonies since August 22, 1996, per BEM 203.
2. On [REDACTED], the Department Caseworker sent Petitioner, a Notice of Case Action, DHS 1605, that his FAP benefits were decreasing to \$ [REDACTED] from \$ [REDACTED] because one of his sons were no longer in the home. Department Exhibit 1, pgs. 2.1-2.3 and 4.1-4.3.

3. On [REDACTED], the Department received a hearing request from Petitioner, contesting the Department's negative action of Petitioner not being eligible for FAP benefits, due to the 2 drug related felonies since August 22, 1996, per BEM 203.

### 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 [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.

In this case, Petitioner applied for FAP benefits in [REDACTED], where he self-reported 2 drug related felonies since August 22, 1996, per BEM 203. On [REDACTED], the Department Caseworker sent Petitioner, a Notice of Case Action, DHS 1605, that his FAP benefits were decreasing to \$ [REDACTED] from \$ [REDACTED], because one of his sons were no longer in the home. Department Exhibit 1, pgs. 2.1-2.3 and 4.1-4.3. On [REDACTED], the Department received a hearing request from Petitioner, contesting the Department's negative action of Petitioner not being eligible for FAP benefits, due to the 2 drug related felonies since August 22, 1996, per BEM 203. BEM 110, 135, 203, 210, 211, and 212.

During the hearing, the Department stated that due to Petitioner's hearing request, the Department requested a Fee referral. On [REDACTED], a Fee Investigation determined that Petitioner only had one countable drug related felony conviction after August 22, 1996, per BEM 203 of [REDACTED]. Department Exhibit 1.1-1.3. The conspiracy charge of [REDACTED], is not a countable drug related felony offense for FAP. Petitioner is eligible for FAP benefits with an authorized representative. Department Exhibit 1, pg. 6. Petitioner was issued a FAP supplement retroactive to [REDACTED].

Petitioner did not request a hearing when the Department told him that he was not eligible for FAP, due to his 2 previous drug felonies after August 22, 1996, per BEM 203. However, the Department received clarification that Petitioner only has one countable drug felony from a Fee Investigation on [REDACTED]. The Department argued that this is past the 30 day of the application filed in [REDACTED], and that he is not even eligible for the supplement of FAP, retroactive to [REDACTED]. However, this is Department's error and the supplement should be retroactive back to [REDACTED].

his application date of [REDACTED] because the Department determined incorrectly that he was not eligible for FAP benefits.

**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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner only has one countable drug related felony after August 22, 1996 per BEM 203, which made him eligible for FAP from his application date of [REDACTED].

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

The Department is ordered to begin doing the following, in accordance with Department policy and consistent with this hearing decision, within 10 days of the date of mailing of this decision and order of initiating a redetermination of Petitioner's eligibility for FAP retroactive to his FAP application date of [REDACTED].

CF/bb



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**Carmen G. Fahie**  
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]

**Petitioner**

[REDACTED]