



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]

Date Mailed: May 15, 2017  
MAHS Docket No.: 17-004933  
Agency No.: [REDACTED]  
Petitioner: [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 May 15, 2017, from Detroit, Michigan. Petitioner was present for the hearing 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 May 1, 2017?

### **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 May 24, 2004, Petitioner was convicted of a drug-related felony. [Exhibit A, pp. 6-8.]
3. On or about December 3, 2007, Petitioner was convicted of a drug-related felony. [Exhibit A, pp. 9-11.]

4. On March 23, 2017, the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits would close effective May 1, 2017, ongoing, because he had been convicted of at least two drug related felonies since August 22, 1996, which results in a permanent disqualification for this type of assistance. [Exhibit A, pp. 13-15.]
5. On April 6, 2017, Petitioner filed a verbal hearing request, protesting the Department's action. [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.

#### **Preliminary matter**

As a preliminary matter, prior to the hearing record being closed, it should be noted that Petitioner left the hearing room. The Department attempted to see if Petitioner was still present at the office, but he had left the premises. Nevertheless, the undersigned Administrative Law Judge (ALJ) issues the hearing decision below and Exhibit A, pp. 1-15 was admitted in the evidence record:

#### **FAP closure**

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 this case, the Department argued that Petitioner should be permanently disqualified from FAP eligibility because he was convicted of 2 or more drug-related felony convictions in separate periods and in which both offenses occurred after August 22, 1996. The evidence presented that Petitioner was convicted of a felony on or about May 24, 2004; and December 3, 2007, for the use, possession, or distribution of

controlled substances two or more times in separate periods and in which both offenses occurred after August 22, 1996. [Exhibit A, pp. 6-12.]

In response, Petitioner argued that he should be eligible for FAP benefits. He argued that the convictions occurred more than ten-years-ago, this is double jeopardy, and that he has already paid his time for the crimes.

Based on the foregoing information and evidence, the undersigned Administrative Law Judge (ALJ) finds that the Department properly closed Petitioner's FAP benefits effective May 1, 2017, in accordance with Department policy. The undersigned does not find Petitioner's arguments persuasive because policy clearly states that he will be permanently disqualified from FAP eligibility if he was convicted of 2 or more drug-related felony convictions in separate periods and in which both offenses occurred after August 22, 1996. BEM 203, p. 2. In this case, the evidence established that Petitioner was convicted of 2 or more drug-related felony convictions in separate periods and in which both offenses occurred after August 22, 1996. [Exhibit A, pp. 6-12.]


Accordingly, the Department acted in accordance with policy when it closed Petitioner's FAP benefits effective May 1, 2017 because of the 2 or more drug-related felony criminal disqualification policy. 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 May 1, 2017.

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

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**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]

[REDACTED]  
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[REDACTED]

[REDACTED] [REDACTED]  
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