



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 6, 2017
MAHS Docket No.: 17-005680
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 May 30, 2017, from Lansing, Michigan. The Petitioner represented himself. The Department was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for 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 June 29, 2011, the Michigan Administrative Hearing System (MAHS) issued a Hearing Decision finding that the Department had credibly found Petitioner responsible for an Intentional Program Violation (IPV) based on his concurrent receipt of food assistance in Michigan and Ohio. Exhibit A, pp 38-43.
2. On July 12, 2011, the Department sent Petitioner an Intentional Program Violation Client Notice (DHS-4357) informing him that he would be disqualified from the Food Assistance Program (FAP) from August 1, 2011, through July 31, 2021. Exhibit A, pp 30-32.
3. On April 24, 2017, the Department received Petitioner's application for Food Assistance Program (FAP) benefits as a household of one. Exhibit A, pp 8-28.

4. On March 27, 2017, the Department notified Petitioner that it had denied his application for Food Assistance Program (FAP) benefits. Exhibit A, pp 4-7.
5. On May 5, 2017, the Department received Petitioner's request for a hearing protesting the denial of his Food Assistance Program (FAP) application. 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.

A court or hearing decision that finds a client committed IPV disqualifies that client from receiving program benefits. A disqualified recipient remains a member of an active group as long as he lives with them, and other eligible group members may continue to receive benefits. Department of Health and Human Services Bridges Administrative Manual (BAM) 720 (January 1, 2016), pp 15-16.

Clients who commit an IPV are disqualified for a standard disqualification period except when a court orders a different period, or except when the OI relates to MA. BAM 720, p. 13. Refusal to repay will not cause denial of current or future MA if the client is otherwise eligible. BAM 710 (July 1, 2013), p. 2. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifetime disqualification for the third IPV, and ten years for a FAP concurrent receipt of benefits. BAM 720, p. 16.

On April 24, 2017, Petitioner applied for FAP benefits. On March 27, 2017, the Department denied Petitioner's FAP application because he has been disqualified from the FAP program and has not served his 10 year disqualification sanction. Petitioner's sanction started on August 1, 2011, and it continues through July 31, 2021. This sanction was established by a hearing decision on Jun 29, 2011.

There is no evidence that Petitioner appealed the June 29, 2011, hearing decision in a timely manner. Petitioner does not have the right to another hearing protesting the IPV disqualification sanction established on June 29, 2011. Applying the principals of res judicata to this hearing, it would be inappropriate to reconsider the merits of that case here.

This Administrative Law Judge does not have the authority to reduce the IPV disqualification sanction. Petitioner's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. 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 denied Petitioner's Food Assistance Program (FAP) application.

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]