



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

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Date Mailed: September 20, 2017
MAHS Docket No.: 17-010675
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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; 42 CFR 438.400 to 438.424; 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 September 18, 2017, from Detroit, Michigan. Petitioner was present and represented herself. Petitioner was also present with her daughter, ██████████. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist, and ██████████, Regulation Agent of the Office of Inspector General.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

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 FAP recipient as of June 2017.
2. The Department sent Petitioner a Notice of Case action on June 20, 2017, notifying her that her FAP benefit case was being closed, effective August 1, 2017, ongoing (Exhibit A, pp. 1-4).
3. Petitioner pleaded guilty to drug-related felonies on October 2, 2006, and September 10, 2010.

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.

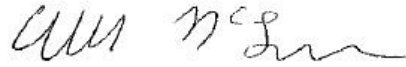
On May 22, 2017, the Department initiated a Front-End Eligibility (FEE) investigation regarding Petitioner's FAP benefit case, because an electronic data match revealed Petitioner had been convicted of two drug-related felonies subsequent to August 22, 1996. An individual convicted of a felony for the 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. The Department sent Petitioner a Notice of Case Action on June 20, 2017, indicating her FAP benefit case was being closed, effective August 1, 2017, as a result of the two drug-related felonies.

In support of its closure, the Department presented a Clear Report, which used Petitioner's full name and date of birth as identifying information (Exhibit B, pp. 1-4). The Clear Report shows that Petitioner began serving sentences for two drug-related felonies on October 18, 2006, and November 12, 2010. The Department also presented two Register of Actions documents from the [REDACTED] Judicial Circuit Court (Exhibit C, pp. 1-4). The first Register of Actions (case number [REDACTED]) shows that Petitioner pleaded guilty to a drug-related felony on October 2, 2006. The second Register of Actions (case number [REDACTED]) shows that an individual named [REDACTED] pleaded guilty to a drug-related felony on September 10, 2010. The Department confirmed with the Michigan Department of Corrections that, despite the misspelling, the September 10, 2010 drug-related felony conviction was related to Petitioner.

The Department presented sufficient evidence to establish that Petitioner was convicted of two drug-related felonies after August 22, 1996. Thus, Petitioner is not entitled to FAP benefits per Department policies.

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



EM/jaf

Ellen McLemore
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]
[REDACTED]
[REDACTED]

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