



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: April 19, 2017  
MAHS Docket No.: 17-003437  
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 April 11, 2017, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator.

### **ISSUE**

Did the Department properly determine that the Petitioner was not eligible for Food Assistance Program (FAP) benefits because he was convicted of 2 drug 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. The Petitioner was a recipient of FAP benefits.
2. On the Online Application, DHS 1171, signed by the Respondent on May 30, 2014, June 29, 2015, and February 21, 2017, the Respondent reported that he had been convicted of a drug felony and that it occurred more than one. Department Exhibit 1, pgs. 13-52.
3. On March 2, 2017, the Department Caseworker received confirmation from the OIG inspector through a fee investigation that the Petitioner had been convicted of

2 drug related felonies of June 20, 2008 and September 27, 2001. Department Exhibit 1, pgs. 11-12.

4. On March 2, 2017, the Department Caseworker sent the Petitioner a notice that his FAP case would close effective April 1, 2017, because the Petitioner was not eligible for FAP benefits due to conviction of at least 2 drug related felonies since August 22, 1996, which results in permanent disqualification for FAP benefits. Department Exhibit 1, pgs. 5-8.
5. On March 7, 2017, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

### **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.

In this case, the Petitioner was a recipient of FAP benefits. On the Online Application, DHS 1171, signed by the Respondent on May 30, 2014, June 29, 2015, and February 21, 2017, the Respondent reported that he had been convicted of a drug felony and that it occurred more than one. Department Exhibit 1, pgs. 13-52. On March 2, 2017, the Department Caseworker received confirmation from the OIG inspector through a fee investigation that the Petitioner had been convicted of 2 drug related felonies of June 20, 2008 and September 27, 2001. Department Exhibit 1, pgs. 11-12. On March 2, 2017, the Department Caseworker sent the Petitioner a notice that his FAP case would close effective April 1, 2017, because the Petitioner was not eligible for FAP benefits due to conviction of at least 2 drug related felonies since August 22, 1996, which results in permanent disqualification for FAP benefits. Department Exhibit 1, pgs. 5-8. On March 7, 2017, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BEM 203, 212, 220, 221, 223, 225, 400, 500, and 554. BAM 105, 130, 205, and 220.

During the hearing, the Hearing Facilitator submitted a Michigan Department of Corrections Offender Tracking Information System (OTIS) Offender Profile for the Petitioner. The OTIS report showed the Petitioner's picture and details and showed a sentence date of November 10, 2011 where he was discharged on December 15, 2016. As a result, the Petitioner was incarcerated and not eligible for FAP benefits submitted

by the FAP applications dated May 30, 2014 and June 29, 2015 because he was not released from prison until December 15, 2016. In addition, the Petitioner submitted a written verification from ██████████ County that he only had one felony drug conviction that is also reflected on OTIS. Petitioner Exhibit a.

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 did not act in accordance with Department policy when it denied the Petitioner's FAP application because the Department believed that he had 2 felony drug convictions since August 22, 1996 through a fee investigation, which would have banned him from receiving FAP benefits for a lifetime. However, the dates of the Fee Investigation and the OTIS report are different for the Petitioner. In addition, the case number of ██████████ ██████████ from County of ██████████ and the OTIS Report are the same. As a result, this Administrative Law Judge can only conclude based on the objective evidence on the record that the Petitioner only has 1 drug felony after 1996, which would make him eligible for FAP with an authorized representative.

### **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 did not act in accordance with Department policy when it denied the Petitioner FAP benefits based on a Fee Investigation that was in contrast to an OTIS report.

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 the Petitioner's eligibility for FAP retroactive to his FAP case closure of April 1, 2016.

*Carmen G. Fahie*

CF/nr

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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]