



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 20, 2017
MAHS Docket No.: 17-003626
Agency No.: [REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 12, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist, and [REDACTED], manager.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) benefits due to Petitioner's history of drug-related felonies.

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 [REDACTED], Petitioner applied for FAP benefits.
2. On unspecified dates after August 22, 1996, and before February 2017, Petitioner was convicted of multiple drug-related felonies.
3. On [REDACTED] 7, MDHHS denied Petitioner's application due to Petitioner's history of drug-related felonies.
4. On [REDACTED], Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of FAP benefits. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-2) dated [REDACTED]. The notice stated Petitioner's application was denied due to Petitioner's alleged history of drug-related felonies.

[For FAP benefits,] people convicted of certain crimes and probation or parole violators are not eligible for assistance. BEM 203 (October 2015), p. 1. 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. *Id.*

MDHHS presented Case Comments- Summary (Exhibit 1, p. 3). Case comments from an unknown MDHHS staff member from January 2013 indicated Petitioner was convicted of drug-related felonies in 2010 and 2011. The document's statement that Petitioner was convicted of multiple drug-related felonies was hearsay and of little probative value.

An MDHHS specialist testified that she interviewed Petitioner concerning his FAP application from February 2017. The specialist testified that Petitioner admitted during an interview that he had multiple drug-related felonies since 1996 and before applying for FAP benefits. Petitioner testimony conceded that MDHHS' testimony was accurate. Petitioner's undisputed criminal history would disqualify Petitioner from receiving FAP benefits.

Despite Petitioner's drug-related history, Petitioner contended he should still be eligible for FAP benefits. Petitioner contended that his need outweighed any benefit from the MDHHS policy.

If the logic of the MDHHS policy was factored in the present decision, MDHHS would have difficulty in justifying the policy. It is not known why MDHHS disqualifies persons based on drug-related convictions, yet more worrisome crimes (e.g. murder, criminal sexual conduct, assaults...) have no effect on a person's FAP eligibility. It is not known why MDHHS does not allow drug-related felons to regain FAP eligibility after some period of redemption. It is questionable that disqualifying multiple drug-related felons has any positive effect on the felons or society-at-large. It is known that MDHHS policy does not allow for a person's need to factor in whether he or she is disqualified for a history of drug-related felonies.

It is found Petitioner was convicted of multiple drug-related felonies after 1996 and before February 2017. Accordingly, the denial of Petitioner's FAP application was proper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's FAP application dated [REDACTED], due to Petitioner's multiple drug-related felony convictions. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki
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]

Petitioner

[REDACTED]