



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: September 7, 2017  
MAHS Docket No.: 17-009901  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 August 30, 2017, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Francene James-Franklin, Eligibility Specialist and Olivette Gordon, Family Independence Manager.

### **ISSUE**

Did the 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. Petitioner submitted an application for FAP benefits on [REDACTED], 2017.
2. Petitioner's application for FAP benefits was denied in the Notice of Case Action issued on May 2, 2017, (Exhibit C, pp. 1-3).
3. Petitioner had two felony drug-related charges, for which he pled guilty to on August 4, 1998, and April 7, 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.

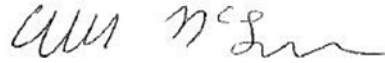
In this case, the Department denied Petitioner's application for FAP benefits as a result of two drug-related felony convictions that occurred after August 22, 1996. An individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times in separate periods will be permanently disqualified if both offenses occurred after August 22, 1996. BEM 203 (October 2015), p. 2.

In support of its denial, the Department presented Petitioner's criminal history from the Michigan Department of Corrections' (MDOC) Offender Tracking Information System (OTIS) and the Michigan State Police's Internet Criminal History Access Tool (ICHAT) (Exhibit D). Both searches used Petitioner's name and date of birth as identifying information. The documentation shows Petitioner had two felony drug-related charges, for which he pled guilty to on August 4, 1998 and April 7, 2010.

The Petitioner acknowledged the information regarding the August 4, 1998, drug-related felony was correct. However, Petitioner testified the April 7, 2010 charge was not drug-related. Petitioner also testified his cousin bears the same name, and it was possible that criminal history belonged to his cousin. Petitioner's testimony was not credible. Both of the criminal history searches clearly used Petitioner's name and date of birth. The date of birth was confirmed as correct by Petitioner. Both searches also contain the 1998 occurrence that Petitioner stated was accurate. Therefore, the Department presented sufficient evidence 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 denied Petitioner's application for FAP benefits. Accordingly, the Department's decision is **AFFIRMED**.



EM/jaf

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**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**

MDHHS-Wayne-57-Hearings

**Petitioner**



BSC4  
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