



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 16, 2018
MAHS Docket No.: 17-016828
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 February 12, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits as a result of felony drug convictions?

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 November 15, 2017, Petitioner submitted a Redetermination to the Department on which he indicated that he has at least two felony drug convictions occurring after August 22, 1996.
2. On December 21, 2017, Petitioner was notified of his FAP benefit case closure effective January 31, 2018 due to having at least two felony drug convictions.
3. On December 27, 2017, Petitioner submitted a hearing request disputing the Department's assertion that he had two felonies and closure of his FAP benefit case.

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 asserts that the Petitioner has two felony drug convictions after August 22, 1996. The Petitioner indicated on his Redetermination that he had two drug felony convictions after August 22, 1996, but then disputed his initial assertion with the request for hearing, and then agreed at the hearing that he had two drug convictions but that one of which he was never able to properly dispute.

Petitioner does not dispute his first conviction. His second conviction was for possession while he was incarcerated. Petitioner does not believe he had a fair chance to dispute the conviction because at the hearing, the evidence was his word against the police officer's word. Ultimately, he agrees that he had a hearing and was convicted.

People convicted of certain crimes and probation or parole violators are not eligible for assistance. BEM 203 (October 2017), p. 1. Effective October 1, 2011, an individual convicted of a felony for the use, possession, or distribution of controlled substances will be permanently disqualified from receipt of FAP if (i) the terms of probation or parole are violated, and the qualifying conviction occurred after August 22, 1996 or (ii) the individual was convicted two or more times and both offenses occurred after August 22, 1996. BEM 203, p. 2. The offense must be classified as a felony by the law of the State and have as an element the possession, use or distribution (which is defined as actual, constructive, or attempted delivery) of a controlled substance. 21 USC 862a(a); 21 USC 802(8) and (11). The disqualification does not apply if the conviction is for conduct occurring on or before August 22, 1996. 21 USC 862a(d)(2).

Since Petitioner admits that he was convicted of two separate drug-related felonies, he is permanently disqualified from the receipt of FAP benefits and the Department's closure of his FAP case was appropriate.

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 effective January 31, 2018.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



AM/cg

Amanda M. T. Marler
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

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]