



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 11, 2018
MAHS Docket No.: 18-003443
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 May 10, 2018, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly deny the Petitioner's application for Food Assistance (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. The Petitioner applied for FAP benefits on March 15, 2018 and reported on the application that he had a felony drug conviction and had been convicted two times for drug felonies. Exhibit A
2. The Department issued a Notice of Case Action on March 16, 2018 denying the Petitioner's FAP application on April 1, 2018 finding the Petitioner was not eligible for FAP due to his conviction of a drug felony at least on two occasions. Exhibit B.
3. The Petitioner requested a timely hearing on March 26, 2018 protesting the denial of his FAP application.

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 applied for FAP on March 15, 2018 and was denied due to advising the Department that he had been convicted of two drug felonies. In the application completed by Petitioner, he answered "yes" to the application questions, have you ever been convicted of a drug felony, and have you been convicted more than once. Exhibit A, p.10. In addition, the Petitioner confirmed his two drug felony convictions to the Department intake worker who interviewed him at the time of the application. The Petitioner confirmed at the hearing that he advised the worker during the interview that he had been convicted two times of a drug felony. The Department denied the Petitioner's application for FAP by a Notice of Case Action it issued March 16, 2018 effective April 1, 2018. Exhibit B.

The Department policy which governs the outcome in this matter is found in BEM 203 which provides the following:

1st Offense A person who has been convicted of a felony for the use, possession, or distribution of controlled substances is disqualified if:

- Terms of probation or parole are violated, **and**
- The qualifying conviction occurred after August 22, 1996.

If an individual is not in violation of the terms of probation or parole:

- FIP benefits must be paid in the form of restricted payments.
- Receipt of FAP benefits requires an authorized representative.

2nd Offense

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 convictions occurred after August 22, 1996.

Example: Matthew Doe was found to have convictions for the use of a controlled substance on April 1, 2012 and for the distribution of

a controlled substance on April 1, 2012. This would count as one conviction since it is on the same day. Policy for the 1st offense for a drug-related felony will be followed.

Example: Mary Smith was found to have a conviction for the possession of a controlled substance on February 1, 2012. Later, she was then convicted for the use and possession of a controlled substance on July 8, 2012. This would count as two convictions because they happened on different dates. Policy for a 2nd offense will be followed. BEM 203 (January 2018) p. 2.

Based upon Department policy referenced above and the evidence presented it is determined that the Department was entitled to rely on the information reported to the Department by Petitioner which he certified that his answer given to the Department were true and correct and that the Department properly denied the application based upon Department policy. The Petitioner is to be commended for his efforts to correct any problems he has experienced in the past, however the Department policy mandates this result. See Petitioner Exhibit 1.

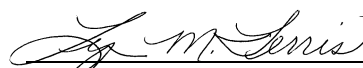
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied the Petitioner's FAP application because he had two drug felony convictions.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

LF/tm



Lynn M. Ferris

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) 763-0155; 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]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc:

[REDACTED]
[REDACTED]