



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: December 4, 2018
MAHS Docket No.: 18-011013
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, a telephone hearing was held on November 28, 2018, from Lansing, Michigan. Petitioner was represented by himself. The Department of Health and Human Services was represented by Dionere Craft, Aqueelah Abdullah, and Valerie Mathis.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's 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. On [REDACTED] 1997, Petitioner was found guilty by a jury of Delivery/Manufacture of a Controlled Substance Less Than 50 Grams for conduct occurring on [REDACTED], 1996. Exhibit A, pp 10-11.
2. On [REDACTED] 2009, Petitioner pled guilty to Delivery/Manufacture of a Controlled Substance Marijuana. Exhibit A, pp 12-13.
3. On August 21, 2018, the Department notified Petitioner that he was not eligible for Food Assistance Program (FAP) benefits. Exhibit A, pp 4-7.
4. On October 23, 2018, the Department received Petitioner's request for a hearing protesting the closure of his Food Assistance Program (FAP) benefits. Exhibit A, pp 2-3.

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.

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 were for conduct which occurred after August 22, 1996. Department of Health and Human Services Bridges Eligibility Manual (BEM) 203 (May 1, 2018), p 4.

Petitioner was an ongoing FAP recipient as a group of one when the Department discovered that he should have been permanently disqualified from receiving those benefits. Petitioner was convicted of two or more felonies involving controlled substances where the conduct for each separate offense occurred after August 22, 1996.

Petitioner disputed that he has two or more felony offenses occurring after August 22, 1996. The Department provided substantial evidence that Petitioner has two or more offenses resulting in felony convictions involving controlled substances, and that two or more of these offenses occurred after August 22, 1996.


The Department has the burden of offering evidence on the record that it determined Petitioner's eligibility in accordance with policy. In another hearing held on October 28, 2015, the Department failed to establish by a preponderance of evidence that Petitioner has been convicted of two or more offenses occurring after August 22, 1996. (MAHS Docket No. [REDACTED], mailed on November 16, 2015). This is not evidence that Petitioner does not have the felony convictions causing him to be permanently disqualified from FAP, but only that the available evidence on that date was insufficient in that hearing.

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 closed Petitioner's Food Assistance Program (FAP) benefits effective October 1, 2018.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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

Demitra Owens
12140 Joseph Campau
Hamtramck, MI 48212

Wayne County (District 55), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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