



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: May 21, 2020
MOAHR Docket No.: 20-001554
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 21, 2020. Petitioner, [REDACTED], appeared and represented himself. Respondent, Department of Health and Human Services (Department), had Linda Watson, Eligibility Specialist, and Heather Gansemer, Family Independence Manager, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 14-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective March 1, 2020?

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 June 19, 2006, Petitioner pled guilty to a controlled substance felony in Kalamazoo County.
2. On November 15, 2012, Petitioner pled guilty to a controlled substance felony in Kalamazoo County.
3. On February 7, 2020, the Department received a report from the Office of Inspector General (OIG), which indicated that Respondent had been convicted of two or more drug-related felonies for offenses occurring after August 22, 1996.

4. Based on the report the Department received from the OIG, the Department determined that Petitioner was ineligible for FAP benefits, and the Department initiated closure of Petitioner's FAP benefits.
5. On February 7, 2020, the Department mailed a notice of case action to Petitioner to notify Petitioner that his FAP benefits were going to close effective March 1, 2020, because he had two drug-related felony convictions.
6. On February 18, 2020, Petitioner requested a hearing to dispute the Department's decision.

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) 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 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 closed Petitioner's FAP benefits after it received a report that Petitioner had two drug-related felony convictions. Petitioner is disputing the closure. An individual who has been convicted of two or more felony drug offenses which occurred after August 22, 1996, is ineligible for FAP benefits. 21 USC 862a and 2017 PA 107, Article X, Part 2, Section 619.

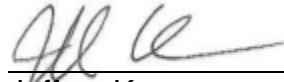
Petitioner admitted that he was convicted of two felony drug offenses which occurred after August 22, 1996. Since Petitioner was convicted of such offenses, Petitioner is ineligible for FAP benefits. Since Petitioner is ineligible for FAP benefits, the Department properly closed Petitioner's FAP benefits. Thus, the Department acted properly.

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 did act in accordance with its policies and the applicable law when the Department closed Petitioner's Food Assistance Program (FAP) benefits effective March 1, 2020.

IT IS ORDERED the Department's decision is AFFIRMED.

JK/ml



Jeffrey Kemm
Administrative Law Judge
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Kalamazoo County DHHS – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail
[REDACTED] MI [REDACTED]