



STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

GRETCHEN WHITMER  
GOVERNOR

ORLENE HAWKS  
DIRECTOR



Date Mailed: February 19, 2019  
MAHS Docket No.: 19-000348  
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, telephone hearing was held on February 13, 2019, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Cathy Burr and Jennifer Allen, representing the Office of Inspector General.

**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 or around December 21, 2018, the Department received Petitioner's application for Food Assistance Program (FAP) benefits.
2. On February 19, 2002, Petitioner pled guilty in the Osceola County Circuit Court of Florida to Delivery of Cannabis for Consideration of More Than 20 Grams, 893.13, Fla Stat, a class three felony in the state of Florida. Exhibit A, pp 14-17.
3. On March 25, 2003, Petitioner pled nolo contendere in the Osceola County Circuit Court of Florida to Possession of Cocaine with intent to sell or deliver, 893.13 Fla Stat, a class three felony in the state of Florida. Exhibit A, pp 18-22.
4. On December 26, 2018, the Department notified Petitioner that his application for Food Assistance Program (FAP) benefits had been denied. Exhibit A, pp 8-11.

5. On January 10, 2019, the Department received Petitioner's request for a hearing protesting the denial of his Food Assistance Program (FAP) application. Exhibit A, pp 2-7.

### **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 (under Federal or State law) of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in section 102(6) of the Controlled Substance Act, 21 U.S.C.802(6)) shall not be considered an eligible household member unless the State legislature of the State where the individual is domiciled has enacted legislation exempting individuals domiciled in the State from the above exclusion. 7 CFR 273.11(m).

Subject to federal approval, an individual is not entitled to the exemption in this section if the individual was convicted of 2 or more separate felony acts that included the possession, use, or distribution of a controlled substance and both acts occurred after August 22, 1996. 2018 PA 207 § 619 (Appropriations Act).

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.

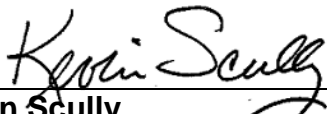
Petitioner applied for FAP benefits. As part of its determination of Petitioner's eligibility for benefits, the Department discovered that Petitioner was convicted of two separate felony offenses involving controlled substances in the state of Florida where the conduct in each case occurred after August 22, 1996. Under Department policy in BEM 203, Petitioner is permanently disqualified from FAP due to his history of felony convictions involving controlled substances.

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 Food Assistance Program (FAP) benefits.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/dh

  
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**Kevin Scully**  
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 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**

Sarina Baber  
22 Center Street  
Ypsilanti, MI 48198

Washtenaw County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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