



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: November 12, 2019
MOAHR Docket No.: 19-010867
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 November 7, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Natalie McLaurin, Hearings Facilitator. During the hearing, an 18-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-18.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] 2019 application for 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. In 2001, Petitioner was convicted of a drug-related felony in Saginaw County. In 2018, Petitioner was convicted of two drug-related felonies, once in Saginaw County and once in Bay County. Exhibit A, p. 12.
2. On [REDACTED], 2019, Petitioner submitted to the Department an application for FAP benefits. Exhibit A, pp. 4-9.

3. On September 5, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his application for FAP benefits was denied due to his criminal history. Exhibit A, pp. 10-11.
4. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing contesting the denial of his September 5, 2019 application for FAP benefits.

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, Petitioner objects to the denial of his [REDACTED], 2019 FAP application. The Department denied the application via a September 5, 2019 Notice of Case Action. The reason given for the denial was that Petitioner's criminal history, which includes two or more drug-related felony convictions, rendered Petitioner disqualified from receiving FAP benefits. During the hearing, Petitioner acknowledged that he had at least three drug-related felony convictions from 2001 through 2018.

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. BEM 203 (May 2018), p. 4; 7 CFR 273.11(m).

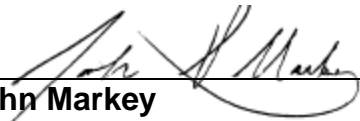
Petitioner acknowledged that he had two or more drug related felonies for actions that occurred after August 22, 1996. Based on Petitioner's admissions, Petitioner was not eligible to receive FAP benefits. Thus, the Department properly denied Petitioner's [REDACTED], 2019 application.

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 [REDACTED] 2019 application for FAP benefits.

DECISION AND ORDER

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

JM/tm



John Markey
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

Kathleen Verdoni
411 East Genesee
PO Box 5070
Saginaw, MI
48607

Petitioner

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

cc: FAP: M. Holden; D. Sweeney
AP Specialist (2)