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GOVERNOR

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

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ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: January 24, 2024
MOAHR Docket No.: 23-007446
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held via telephone conference line on January 17, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Eileen Kott, manager, and Denise Newsome, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's 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. On an unspecified date, Petitioner signed documentation agreeing that she committed a FAP-related IPV resulting in a 6-month FAP disqualification beginning July 1994.
2. On September 19, 1995, Petitioner signed documentation agreeing that she committed a FAP-related IPV resulting in a 12-month FAP disqualification beginning February 1996.
3. On August 16, 1998, Petitioner signed documentation agreeing that she committed a FAP-related IPV resulting in a lifetime FAP disqualification beginning December 1998.

4. On [REDACTED] [REDACTED] 2023, Petitioner applied for FAP benefits.
5. On October 26, 2023, MDHHS denied Petitioner's FAP application due to the lifetime FAP-related IPV disqualification.
6. On October 30, 2023, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

The 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. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-5. Petitioner applied for FAP benefits on [REDACTED] [REDACTED] 2023. Exhibit A, pp. 10-23. A Notice of Case Action dated October 26, 2023, stated that Petitioner was denied FAP benefits due to having a FAP-related lifetime IPV disqualification. Exhibit A, pp. 24-27.

Individuals found to have committed a FAP-related IPV shall be ineligible to receive FAP benefits. 7 CFR 273.16(b). The standard disqualification period is used in all instances except when a court orders a different period. Standard IPV penalties are as follows: one year for the first IPV, two years for the second IPV, and lifetime for the third IPV. *Id.*¹ and BAM 720 (October 2017) p. 16.

MDHHS presented a summary of Petitioner's past FAP-related sanctions. Exhibit B, p. 1. The summary listed three past FAP-related IPV disqualification periods.² *Id.* MDHHS prepared three Overpayment Packets dated December 5, 2023, containing documentation of each IPV.

The packet for the earliest IPV concerned an over-issuance (OI) of FAP benefits from April 1992 to January 1993. Exhibit A, pp. 3-16. The OI resulted in a six-month FAP-related IPV imposed beginning July 1994. The matter was referred to Recorder's Court resulting in Petitioner signing documentation agreeing to deferred prosecution. Exhibit B, pp. 9-10.

A second hearing packet concerned an OI of FAP benefits from May through July 1993. Exhibit A, pp. 17-30. The OI resulted in a 1-year FAP related IPV period imposed beginning February 1996. *Id.* On September 19, 1995, Petitioner signed documentation

¹ Presumably, the IPV disqualification periods at the time of alleged IPV in the present case were six months, one year, and lifetime, respectively.

² Two cash assistance related IPV were also imposed.

agreeing to OI repayment and the FAP-related disqualification of one year. Exhibit B, p. 19.

A third hearing packet concerned an OI of FAP benefits from April through October 1996. Exhibit A, pp. 31-38. The OI resulted in a lifetime FAP-related disqualification. Petitioner signed documentation agreeing to OI repayment and the lifetime FAP-related disqualification. Exhibit B, p. 37.

Petitioner contended that only a single FAP-related IPV disqualification was ever imposed against her. The hearing packets established that three different FAP-related IPVs occurred, and that Petitioner signed documentation agreeing to the lifetime FAP-related disqualification.

Petitioner also contended that any previous FAP-related IPVs should be dismissed because over 25 years have passed since Petitioner's last disqualification. Unfortunately for Petitioner, neither federal, state, nor MDHHS regulations indicate any forgiveness for past FAP-related IPVs due to the passage of time.

Given the evidence, MDHHS established that Petitioner has three FAP-related IPV disqualification resulting in a lifetime disqualification. Thus, MDHHS properly denied Petitioner's FAP application dated [REDACTED] 2023.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's FAP application dated [REDACTED] 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
Administrative Law Judge

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

Via-Electronic Mail :

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