GRETCHEN WHITMER GOVERNOR DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES SUZANNE SONNEBORN EXECUTIVE DIRECTOR Date Mailed: October 18, 2024 MOAHR Docket No.: 24-010272 Agency No.:

ADMINISTRATIVE	LAW JUDGE	: Linda Jordan

HEARING DECISION

Petitioner:

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 on October 9, 2024, via teleconference. Petitioner appeared and represented himself. Lianne Scupholm, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-89.

<u>ISSUE</u>

Did MDHHS properly deny 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 2024, Administrative Law Judge Jeffrey Kemm issued a decision finding that Petitioner committed an Intentional Program Violation (IPV) and disqualifying him from FAP for 12 months (Exhibit A, p. 49). MOAHR Case No. 23-007062.
- 2. On 2024, MDHHS sent Petitioner an Intentional Program Violation Client Notice, indicating that he was disqualified from receiving FAP for 12 months from July 1, 2024 to June 30, 2025 (Exhibit A, p. 32).
- 3. On **Example 1**, 2024, Petitioner applied for FAP benefits, and MDHHS sent Petitioner a Notice of Case Action denying his application for FAP due to an IPV sanction (Exhibit A, pp. 23-24).
- 4. On September 4, 2024, Petitioner requested a hearing regarding the denial (Exhibit A, p. 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.

In this case, MDHHS denied Petitioner's application for FAP due to an IPV sanction. An individual who is found pursuant to an IPV disqualification hearing to have committed a FAP IPV is disqualified from receiving benefits for the same program for 12 months for the first IPV, 24 months for the second IPV, and lifetime for the third IPV. 7 CFR 273.16(b)(1); BAM 720 (October 2017), p. 16.

Here, Petitioner was disqualified from receiving FAP benefits for a period of 12 months in Case No. 23-007062. MDHHS notified Petitioner of the IPV disqualification and properly denied Petitioner's FAP application because he submitted it during the disqualification period. Petitioner testified that he did not receive notice of the disqualification hearing because he was incarcerated. Petitioner was advised that he can request a rehearing or reconsideration of the decision in that case, or he can appeal the decision to the Circuit Court, pursuant to the policy provided in BAM 600 (February 2024), pp. 44-45.

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 MDHHS acted in accordance with Department policy when it denied Petitioner's FAP application.

DECISION AND ORDER

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

Inda inda Jordan

Administrative Law Judge

LJ/pt

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:

DHHS Kristina Etheridge Calhoun County DHHS 190 East Michigan Battle Creek, MI 49016 MDHHS-Calhoun-Hearings@michigan.gov

Interested Parties BSC3 M Holden B Cabanaw N Denson-Sogbaka MOAHR

Via-First Class Mail:



