

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No.: 2010 38252
Issue No.: 3016
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 1, 2010
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted on July 1, 2010 from Detroit, Michigan. The Claimant appeared and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Food Assistance ("FAP") benefits effective 5/27/10.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. The Claimant was an active FAP recipient.
2. The Department discovered that Claimant was receiving unemployment compensation benefits and attending [REDACTED] full time (Exhibit 1, pp. 4-10).

3. The Department closed Claimant's FAP benefits effective 5/27/10.
4. Claimant objected to denial of FAP benefits and filed this appeal. The Department received the Claimant's Request for Hearing on June 3, 2010.

CONCLUSIONS OF LAW

The Food Assistance Program, formerly known as the Food Stamp ("FS") program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations ("CFR"). The Department of Human Services ("DHS"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

A full-time student in post-secondary education is generally not eligible for FAP. A person is in student status if he is:

- Age 18 through 49: and
- Enrolled half-time or more in a:
 - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - Regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required.

In order for a person in student status to be eligible, they must meet one of the following exception criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
 - Approved employment-related activities (See BEM 230B).
 - A JTPA program.
 - Continues until the end of the month in which the school term ends, or when you become aware that the student has refused a work-study assignment.

- Remains between terms or semesters when the break is less than a full month, or the student is still participating in work study during the break.
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
 - Enable the person to attend class and work at least 20 hours per week.
 - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does not live with his or her natural, adoptive or stepparent. For the care of a child under age six, consider the student to be providing physical care as long as he or she claims primary responsibility for such care, even though another adult may be in the FAP group.

When determining the availability of adequate child care for a child six through 11, another person in the home, over 18, need not be a FAP group member to provide care. The person remains in student status while attending classes regularly. Student status continues during official school vacations and periods of extended illness. Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term).

- A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
- Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.


- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year. To qualify under this provision the student must be approved for work study during the school term and anticipate actually working during that time. The exemption:
 - Starts the month the school term begins or the month work study is approved, whichever is later.

In the present case, Claimant testified that during the subject period, he was attending school full time at [REDACTED]. Claimant testified that he has been receiving UCB since February of 2009. Claimant testified that he is not receiving FIP and is not providing full time physical care for any children. Claimant has been providing physical care for his mother only for the past two weeks. Nor does Claimant meet any of the other exceptions. Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination to deny FAP benefits was proper according to policy and is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied the Claimant's FAP benefits effective 5/27/10.

Accordingly, the Department's FAP eligibility determination is AFFIRMED.


Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/12/2010

Date Mailed: 07/12/2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JV/cjp

cc:

