

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201120016  
Issue No: 3029  
Case No: [REDACTED]  
Hearing Date: March 16, 2011  
Ingham County DHS

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on January 7, 2011. After due notice, a telephone hearing was held on Wednesday, March 16, 2011.

**ISSUE**

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

**FINDINGS OF FACT**

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

1. The Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. The Claimant received Family Independence Program (FIP) benefits, but the Department sanctioned these benefits from February 1, 2011, through April 30, 2011, due to his spouse's noncompliance with employment-related activities.
3. On January 3, 2011, the Department notified the Claimant that his spouse is disqualified from his FAP group because she is not an eligible student.

4. The Department received the Claimant's request for a hearing on January 7, 2011, protesting the disqualification of his spouse from the Food Assistance Program (FAP).

### **CONCLUSIONS OF LAW**

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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 or Department), administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Department of Human Services (DHS) has a unique opportunity to assist families in becoming strong, viable, participative members of the community. By involving the adult members of the household in employment-related activities, we help restore self-confidence and a sense of self-worth. These are cornerstones to building strong, self-reliant families.

The goal of the Food Assistance Program (FAP) is to ensure sound nutrition among children and adults. In addition, the goal of our employment-related policies for FAP households is to assist applicants and recipients toward self-sufficiency by providing them with opportunities to pursue employment and/or education and training.

Clients meeting one of the criteria below are temporarily deferred from employment-related activities.

A person enrolled in a post-secondary education program may be in student status, as defined in BEM 245, Page 3, STUDENT STATUS.

In order for a person in student status to be eligible, they must meet one of the following 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.
  - 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.
  - 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.

In this case, the Claimant is an ongoing Food Assistance Program (FAP) recipient. The Department sanctioned the Family Independence Program (FIP) benefits the Claimant had been receiving for his spouse's noncompliance with employment-related activities. On January 3, 2011, the Department notified the Claimant that his spouse is disqualified from his FAP group because she is not an eligible student.

The Claimant argued that he believed that his spouse is an eligible student because she is taking classes for eight credit hours.

The Claimant's spouse had previously been an eligible FAP and FIP group member and applied the combination of school and employment towards her required employment-related activities. After the Department sanctioned the Claimant's FIP benefits, the Claimant's spouse became a disqualified FAP group member, unless she met the qualifications of Bridges Eligibility Manual Item #245, School Attendance and Student Status. The Claimant's spouse does not meet the listed requirements of BEM 245 for student status.

Based on the evidence and testimony available during the hearing, the Department has established that it properly determined that the Claimant's spouse is a disqualified Food Assistance Program (FAP) group member.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's FAP eligibility.

The Department's FAP eligibility determination is AFFIRMED. It is SO ORDERED.

/s/

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Kevin Scully  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: March 22, 2011

Date Mailed: March 23, 2011

**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.

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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.

KS/vc

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