

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201125867
Issue No.: 3016
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: April 25, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 held on April 25, 2011. The Claimant was present and testified. The Department of Human Services (Department) was represented by [REDACTED] and [REDACTED] FIM.

ISSUE

Was the Department correct in closing Claimant's Food Assistance Program (FAP) case due to student status 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. Claimant was an ongoing FAP recipient.
2. Claimant was a college student who was not employed at least twenty hours per week and being paid for such employment on April 1, 2011.
3. The Department closed Claimant's FAP case effective April 1, 2011.
4. Claimant requested a hearing, protesting the closure.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) 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 administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in BAM, BEM and PRM, which includes the Reference Tables (RFT).

BEM 245 instructs:

A person is in student status for FAP purposes if he or she 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, he or she 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. (Emphasis added.)

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.

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 classes and work at least 20 hours per week.

Participate in a state or federally-financed work study program during the regular school year.

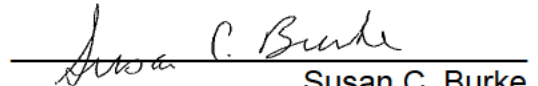
A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does **not** live with his or her natural, adoptive or stepparent. (BEM 245, p. 2, 3)

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In the present case, Claimant admits that at the time of the effective closure of her FAP case, April 1, 2011, she was a college student who was not employed for at least twenty hours per week and being paid for such employment. Although Claimant began working twenty hours per week April 18, 2011, the Department was correct in closing Claimant's FAP case on April 1, 2011. Claimant may reapply for FAP, as she indicated she would at the hearing. It is noted that Claimant did not claim to meet the other criteria enumerated above to continue to receive FAP under student status.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was correct in its closure of Claimant's FAP case, and it is therefore ORDERED that the Department's decision is AFFIRMED.


Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 4, 2011

Date Mailed: May 4, 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.

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.

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