

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

IN THE MATTER OF:



Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on September 12, 2011. After due notice, a telephone hearing was held on October 12, 2011. Claimant and her mother personally appeared and testified.

ISSUE

Did the department properly close Claimant's Food Assistance Program (FAP) benefits due to Claimant's student status?

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 receiving FAP benefits at all times pertinent to this hearing.
2. On September 2, 2011, the department mailed Claimant a Notice of Case Action (DHS 1605), advising Claimant that, effective October 1, 2011, Claimant's FAP benefits case would be closed for the reason that Claimant no longer meets the criteria for eligibility due to her student status. (Department Exhibits 1-2).
3. On September 12, 2011, the department received Claimant's hearing request, protesting the closure of Claimant's FAP case. (Request for a Hearing)

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Effective April 1, 2011, clients in student status are no longer eligible to receive FAP benefits based solely on an approved education plan. A person is in student status if the person is 18 through 49 years old and enrolled half-time or more in a: (i) vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245.

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

- Receiving Family Independence Program benefits.
- Enrolled in an institution of higher education as a result of participation in:
 - Approved employment -related activities.
 - A JTPA program.
 - A program under Section 236 of the Trade Readjustment Act of 1974.
 - 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 student status eligibility provision, the student must be approved for work study during the school term and anticipate actually working during that time, unless exempted because the student:
 - 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. BEM 245.

For the care of a child under age six, the department shall 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. Moreover, when determining the availability of adequate child care for a child between the ages of six and 11, another person in the home, over 18 years of age, need not be a FAP group member to provide care. BEM 245.

A 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). BEM 245.

In this case, Claimant's FAP case was closed because she was listed as attending school, not having minor children and not working 20 hours a week. At the prehearing conference, Claimant informed the department she had been attending school since April 2011. The department gave Claimant a Verification of Student Information which was due back to the department by September 19, 2011. Claimant did not return the Verification until October 7, 2011, and her FAP case was closed.

This Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, the department properly closed Claimant's FAP benefits case effective October 1, 2011, based on the uncontested evidence in their records that she was in student status and did not otherwise meet the eligibility criteria at that time.

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Claimant testified that she was currently a full-time student as of September 26, 2011 and employed at twenty hours a week. The department instructed Claimant that she could reapply for FAP benefits and a new eligibility determination would be ran.

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 closing Claimant's FAP benefits case.

Accordingly, the department's actions are AFFIRMED.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/13/11

Date Mailed: 10/13/11

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.

VLA/ds

