

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201125699

Issue No: 3016

[REDACTED]

[REDACTED]

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 March 22, 2011. After due notice, a telephone hearing was held on [REDACTED].

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 applied for Food Assistance Program (FAP) benefits on January 27, 2010.
2. The Claimant reported to the Department on her application for assistance that she expected to work 4 to 16 hours per week.
3. As of April 1, 2011, the students must meet the requirements of Bridges Eligibility Manual Item 245, "School Attendance and Student Status" in order to remain eligible for Food Assistance Program (FAP) benefits. L-11-33 FAP E&T Student Status.
4. On March 13, 2011, the Department notified the Claimant that it would terminate her Food Assistance Program (FAP) benefits.

5. The Claimant provided verification that she worked [REDACTED] from March 13, 2011, through March 26, 2011. The Claimant provided verification that she worked 28 hours from March 27, 2011, through April 9, 2011.
6. The Department received the Claimant's request for a hearing on March 22, 2011, protesting the termination of her Food Assistance Program (FAP) benefits.

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. BEM 230B.

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. BEM 230B.

Persons employed, self-employed or in work study an average of 30 hours or more per week over the benefit period or earning on average the federal minimum wage times 30 hours per week are not required to participate in any further employment-related activities. This includes migrant or seasonal farm workers with an employer or crew chief contract/agreement to begin work within 30 days. BEM 230B.

A person enrolled in a post-secondary education program may be in student status, as defined in BEM 245, Student Status. BEM 230B.

A person enrolled in a post-secondary education program may be in student status, as defined in this item. A person in student status must meet certain criteria in order to be eligible for assistance. BEM 245.

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 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. BEM 245.

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). BEM 245.

A person who is in student status and does not meet the criteria in BEM 245 is a non group member. BEM 212.

The Claimant applied for Food Assistance Program (FAP) benefits on January 27, 2010. The Claimant reported to the Department on her application for assistance that she expected to work 4 to 16 hours per week.

As of April 1, 2011, the students must meet the requirements of Bridge Eligibility Manual Item 245, "School Attendance and Student Status" in order to remain eligible for Food Assistance Program (FAP) benefits. L-11-33 FAP E&T Student Status. On March 13, 2011, the Department notified the Claimant that it would terminate her Food Assistance Program (FAP) benefits. Based on the information reported on her application for assistance, the Claimant does not meet the criteria of BEM 245.

The Claimant provided verification that she worked 35 hours per week during March of 2011.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105. Income reporting requirements are limited to the following:

Earned income:

- Starting or stopping employment.
- Changing employers.
- Change in rate of pay.
- Change in work hours of more than five hours per week that is expected to continue for more than one month.

Unearned income:

- Starting or stopping a source of unearned income.
- Change in gross monthly income of more than \$50 since the last reported change.

Other changes:

- Persons in the home.
- Marital status.
- Address and shelter cost changes that result from the move.
- Vehicles.
- Assets.
- Child support expenses paid.
- Health or hospital coverage and premiums.
- Day care needs or providers. BAM 105

The Claimant may remain eligible for Food Assistance Program (FAP) under the Student Status if she works at least 20 hours per week. In this case, the Claimant demonstrated that for a 30-day period starting on March 13, 2011, that the Claimant averaged 35 hours per week.

However, the Department made its Food Assistance Program (FAP) eligibility determination based on the best information available at the time. The Claimant had a duty to report a change in work hours of more than five hours per week that potentially affected her eligibility to receive benefits. BAM 105.

In this case, the Claimant did not report her increase in hours worked before her Food Assistance Program (FAP) benefits were terminated for not meeting the requirements of the Student Status policy.

The Department has established that it properly terminated the Claimant's Food Assistance Program (FAP) benefits.

