

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011 33884
Issue No. 3016
Case No. [REDACTED]
Hearing Date:
June 14, 2011
Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on June 14, 2011. The Claimant did not appear. The Claimant's authorized representative [REDACTED] appeared and testified. Rwanda Alexander, Assistance Payments Supervisor, and Diane Coles, ES appeared and testified on behalf of the Department.

ISSUE

Did the Department properly deny the Claimant's Food Assistance (FAP) application due to his student status at the time of the application.

FINDINGS OF FACT

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

1. The claimant applied for Food Assistance (FAP) on February 15, 2011.
2. The Department issued a Notice of Case Action on April 1, 2011 denying the application based upon a change in Department Policy which no

longer allowed students to be eligible for Food Assistance unless they met certain criteria. Exhibit 1

3. The Notice advised the Claimant of the official Department policy change, effective April 1, 2011. Exhibit 1
4. The Claimant, at the time of his application, was [REDACTED] years of age and attended school several days a week for 2 hours each day and lived in his mother's home.
5. The Claimant currently is not enrolled in school.
6. The Department did not specifically state whether the Claimant was working 20 hours per week, or whether he might be disabled or meet the other eligibility criteria established for eligible students based upon DHS policy.
7. On March 8, 2011, the Claimant filed a request for a hearing protesting the denial of his food assistance application.

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 MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In this case, the Administrative Law Judge has reviewed the recent policy changes with regard to student status policy contained in 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 to be fully qualified a student must also meet 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.

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 pages 3 and 4.

The Administrative Law Judge has reviewed the above policy and finds that, based upon the testimony offered by the Department at the hearing, it was not clearly established what specific criteria the Claimant did not meet as a student. There was no evidence that the Claimant was denied because he was not working, nor was the application filed by the Claimant provided to establish that the Claimant did not meet the qualifications of a FAP eligible student.


Based on the evidence presented by the Department, it could not be determined whether the Department properly and correctly denied the Claimant's FAP application. The Department did not meet its burden of proof as no basis for the application denial other than the Claimant was a student was provided. Thus, the Department's determination by Notice of Case Action of March 18, 2011 is reversed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department's denial of the claimant's FAP application was in error as insufficient proofs were provided to support the denial of the application and therefore the denial of the FAP application is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall reinstate the Claimant's application for FAP retroactive to the date of application and shall determine the Claimant's eligibility for FAP benefits based upon BEM 245, and the new policy effective April 1, 2011, and shall specifically determine which criteria the Claimant does not meet if it denies the application.
2. The Department shall issue a supplement to the Claimant for any FAP benefits he may be otherwise eligible to receive in accordance with Department policy.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 06/16/11

Date Mailed: 06/20/11

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.

LMF/dj

cc:

