

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-38890

Issue No: 3016/2001

[REDACTED]

Washtenaw 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 June 15, 2011. After due notice, a telephone hearing was held on July 19, 2011. Claimant personally appeared and testified.

ISSUE

- 1) Did the department properly close Claimant's Food Assistance Program (FAP) benefits due to Claimant's student status?
- 2) Did the department properly close Claimant's Adult Medical Program (AMP) benefits for failure to return requested verifications?

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 March 15, 2011, the department mailed Claimant a Redetermination packet with a due date of April 4, 2011. (Department Exhibit 11).
3. On April 4, 2011, the department mailed Claimant a Notice of Missed Interview informing Claimant that because he missed his scheduled interview for his Redetermination, it was now his responsibility to reschedule the interview before April 30, 2011, or his benefits would be denied. (Department Exhibit 12).

4. Claimant submitted his Redetermination packet on April 29, 2011. The packet was processed and the department determined that Claimant's FAP benefits case would be closed because Claimant no longer met the criteria for eligibility due to his student status. (Department Exhibit 9).
5. On May 16, 2011, the department mailed Claimant a Verification Checklist regarding his AMP benefits, requesting a current statement from his bank to verify his checking account, due May 26, 2011. (Department Exhibit 6).
6. On June 15, 2011, the department received Claimant's hearing request, protesting the closure of Claimant's FAP and AMP 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 MAC R 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 testified that he was a full-time student and unemployed at the time the department closed his FAP benefits. Claimant stated that he believed that he fell under the mentally unfit for employment category. However, Claimant admitted that he had not informed the department that he was currently receiving mental health treatment through Community Services because he believed the two departments shared information. Likewise, Claimant has not submitted any documentation to the department supporting his claim that he was mentally unfit for employment at the time of the hearing. Claimant did state that he has applied for disability through the social security administration and is currently appealing the denial.

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 April 30, 2011, because he was in student status and did not otherwise meet the eligibility criteria.

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, et seq. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Department policy states that clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Clients must take actions within their ability to obtain verifications. BAM 105.

The department must assist when necessary. The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130.

The department uses the Verification Checklist, DHS-3503, to tell the client what verification is required, how to obtain it and the due date. The client must obtain the required verification, but the department must assist if they need and request help. BAM 130.

A client is allowed 10 calendar days (or other time limit specified in policy) to provide the verification requested by the department. The department sends a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130.

In this case, Claimant testified that he did submit the requested verification of his bank account, and through no error of his own, he did not notice that his bank representative had not properly completed the Verification of Assets form. Claimant stated that the department mailed the form back to him and he returned to the bank where they properly completed the form and as a result he missed the deadline to turn in the requested verification and the department closed his AMP case. Claimant argued that he should not be held responsible for the bank's error, or his inexperience with the proper completion of the forms.

Claimant's grievance centers on dissatisfaction with the department's current policy. Claimant's request that his AMP benefits be reinstated is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940). As such, the department's denial of Claimant's FAP allotment and closure of his AMP benefits must be upheld.

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 and AMP 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: 7/20/11

Date Mailed: 7/20/11

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.

VLA/ds

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