

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

IN THE MATTER OF:

[REDACTED]  
[REDACTED]  
[REDACTED]

Reg. No: 201138891  
Issue No: 3016, 2001  
Case No: [REDACTED]  
Hearing Date:  
July 26, 2011  
Wayne County DHS

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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 Tuesday, July 26, 2011. Claimant personally appeared and provided testimony.

**ISSUE**

Whether the department properly denied the Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) application?

**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 submitted an application for Food Assistance Program (FAP) and Medical Assistance (MA) benefits.
2. On May 21, 2011, the Department notified the Claimant that it had denied her application for Food Assistance Program (FAP) benefits because she is not eligible under the student status policy, which went in to effect on April 1, 2011.
3. On May 21, 2011, the Department notified the Claimant that it had denied her application for Medical Assistance (MA) benefits because she is not eligible for any program other than the Adult Medical Program (AMP), which is currently frozen to new enrollments.

4. On June 15, 2011, the department received Claimant's hearing request contesting the closure of Claimant's FAP benefits case. (Request for a Hearing)

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) was 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).

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

In order for an individual in student status to be eligible for FAP benefits, the individual 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.

The Claimant did not dispute that he did not meet the criteria of Bridges Eligibility Manual Item 245.

This Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, the department acted in accordance with policy in determining that Claimant was no longer eligible for FAP benefits and closing Claimant's FAP case due to student status.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. 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).

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 Bridges Reference Manual (BRM).

The Claimant applied for MA benefits under the AMP category. Enrollment in AMP was frozen to new enrollments when the Claimant submitted her application. Applications received during the freeze on AMP enrollments must be registered and denied using "applicant did not meet other eligibility requirements" as the denial reason. BEM 640.

Based on the evidence and testimony available during the hearing, the Department has established that it properly denied the Claimant's application for Medical Assistance (MA).

The Claimant argued that she had been enrolled in the Adult Medical Program (AMP), and that her benefits had been improperly closed. The Claimant testified that she had submitted a hearing request protesting the closure of her benefits, but that her request had not been acted upon.

The Department's representative testified that the previous request for a hearing had been submitted in a different Department district, and that he did not have access to the details of the request. This prior hearing request must be processed by the Department before the underlying issues can be settled by an administrative hearing.

The Claimant may submit an additional request for a hearing to the Department district where her benefits were terminated. This second request for a hearing should make reference to the previous request that the Department has not acted upon. If the Department fails to process this request for a hearing, the Claimant should contact the Michigan Administrative Hearings System office for additional guidance.

**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 determining that Claimant is not eligible for FAP benefits due to student status, and that the Department properly denied the Claimant's application for the Adult Medical Program (AMP) because the program is no accepting new enrollments at this time.

The department's actions are UPHELD. It is SO ORDERED.



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Kevin Scully  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: August 1, 2011

Date Mailed: August 2, 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.

SK/tg

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cc:

