

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201224814
Issue No: 3016
Case No: [REDACTED]
Hearing Date: February 9, 2012
Branch County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before me pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on February 9, 2012. The Claimant and the Department participated and provided testimony.

ISSUE

Whether the Department properly removed Mr. Sali Asker from the Claimant's Food Assistance Program (FAP) group due to [REDACTED] student status?

FINDINGS OF FACT

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

1. At all times pertinent to this hearing, the Claimant was receiving FAP benefits.
2. As of January 2012, [REDACTED] (Claimant's son) was enrolled as a full-time student at [REDACTED]
3. On February 1, 2012, the Department removed [REDACTED] from the Claimant's FAP group due to student status.
4. On January 9, 2012, the Department notified the Claimant about the member removal.
5. On January 13, 2012, the Claimant filed a hearing request protesting the Department's action to remove [REDACTED] from his FAP group.

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 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 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).

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

In this case, it was undisputed that [REDACTED] was in student status and did not meet one of the student status exceptions. Therefore, in accordance with BEM 212, Mr. Sali Asker is considered a non-group member and the Department was correct in deleting [REDACTED] from the Claimant's group.

Consequently, I find the Department acted in accordance with policy in removing [REDACTED] from the Claimant's FAP group.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, decide the Department acted in accordance with policy in removing [REDACTED] from the Claimant's FAP group due to student status.

The Department's actions are **AFFIRMED**.

/s/ _____
Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 9, 2012

Date Mailed: February 10, 2012

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.

CAA/cr

cc:

