

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 33419
Issue No.: 3004
Case No.: [REDACTED]
Hearing Date: March 14, 2012
County: SSPC EAST(98)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on March 14, 2012. from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], Assistance Payments Supervisor, and Sheri Robertson, Assistance Payments Worker.

ISSUE

Did the Department properly deny the Claimant's Food Assistance (FAP) case due to Claimant's student status?

FINDINGS OF FACT

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

1. Claimant applied for benefits for: received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On January 30, 2012, the Department denied Claimant's application closed Claimant's case for Food Assistance. reduced Claimant's benefits
3. On February 6, 2012 the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
3. The Claimant's application indicated that she was a full time student and worked 10 hours per week.
4. On February 14, 2012, Claimant or Claimant's AHR filed a hearing request, protesting the denial of the application. closure of the case. reduction of benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, Rule 400.3151 through Rule 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, this matter arises out of a denial of the Claimant's FAP benefits due to the application which she filed for FAP benefits indicating that she attend college full time and worked 10 hours per week. The Claimant credibly testified that she was unaware that Work Study Program participation was a category that must be considered by the Department when determining eligibility for FAP benefits. After receiving a copy of the requested Department Policy, the Claimant became aware of the policy. The Claimant was not asked at her telephone interview with the Department whether she participated in a Work Study Program.

BEM 245 governs the question of student eligibility and provides an exhaustive list of requirements and criteria for qualification as a student:

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:

- 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:

BEM 245 4 of 6 SCHOOL ATTENDANCE AND STUDENT STATUS
BRIDGES ELIGIBILITY MANUAL STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES

•• Enable the person to attend class and work at least 20 hours per week.

- 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 pp.2-6.

The Claimant credibly testified that she is enrolled in a Work Study Program and thus is qualified to be deemed eligible for FAP benefits if verification of Work Study enrollment is provided. In this case the Department did not seek verification, as it did not know that claimant participated in Work Study and the Claimant was unaware that Work Study was a separate category of eligibility.

Based upon the evidence admitted at the hearing and the testimony of the parties, it is found the Department incorrectly denied the Claimant's FAP application based on work status alone. The policy contained in BEM 245 contains a separate eligibility category for Work Study and does not require that Work Study participation include the 20 hour per week requirement contained in the employment eligibility category. Eligibility based on 20 hours of employment and Work Study are two separate and distinct categories of eligibility. The policy as drafted by the Department does not require a 20 hour Work Study participation. BEM 245.

The denial of the Claimant's FAP application was in error for the above stated reasons.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that, due to excess income, the Department properly improperly

- denied Claimant's application
- reduced Claimant's benefits
- closed Claimant's case

for: AMP FIP FAP MA SDA CDC.

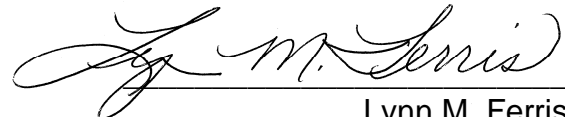
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall initiate reinstatement of the Claimant's FAP application retroactive to the date of the application, January 30, 2011.
2. The Department shall determine the Claimant's eligibility for FAP benefits in accordance with Department policy.
3. The Department shall seek verification from the Claimant regarding her Work Study Program participation and any other information it requires to determine eligibility.
4. In determining eligibility the Department shall shall not require Work Study participation of 20 hours per week for the reasons set forth above in the Conclusions of Law.
5. The Department shall issue a supplement to the Claimant for FAP benefits, if any, she is otherwise eligible in accordance with Department policy retroactive to the date of application, January 30, 2012.



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

Date Signed: March 14, 2012

Date Mailed: March 14, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc:

