

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No: 201238125
Issue No: 3016
Case No: [REDACTED]
Hearing Date: April 5, 2012
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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. After due notice, a telephone hearing was held on April 5, 2012. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly close Claimant's Food Assistance Program (FAP) case beginning March 1, 2012, because he was an ineligible student?

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 an ongoing recipient of Food Assistance Program (FAP) benefits.
2. On February 17, 2012, Claimant was sent a Notice of Case Action (DHS-1605) which stated his Food Assistance Program (FAP) benefits would end on March 1, 2012 because he was an ineligible student.
3. On February 29, 2012, Claimant submitted a request for 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 Program Reference Manual (PRM).

In this case neither party disputes that Claimant is a student in accordance with Department policy nor that he is attending an education program through Michigan Works Agency which is paid for by the Michigan Works Agency. Claimant asserts that the program he is in is funded under Michigan Public Act 251 of 2008 as part of the No Worker Left Behind Program. The Department worker who wrote the Hearing Summary (DHS-3050) was not present at this hearing. The Hearing Summary (DHS-3050) asserts that: Claimant's education program is paid for by the Workforce Investment Act; the Workforce Investment Act is no longer an active program; the program is not mandatory for Claimant to attend; and that the program is not a JTPA program, or under section 236 of the Trade Readjustment Act of 1974 and does not qualify as a state or local government employment and training program. The Department worker present at the hearing was unable to address or explain the assertions in the Hearing Summary (DHS-3050). Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

**BEM 245 SCHOOL ATTENDANCE AND STUDENT STATUS DEPARTMENT POLICY
FAP Only**

A person enrolled in a post-secondary education program may be in student status, as defined in this item. A person in student status must meet certain criteria in order to be eligible for assistance.

**STUDENT STATUS
FAP Only**

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 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.
- 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.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12.

The undisputed evidence that Claimant's education program is funded by the State of Michigan through the Michigan Works Agency qualifies the program under the category described with the plain language "Enrolled in an institution of higher education as a result of participation in: Another State or local government employment and training program" as cited in the above policy. The Department has presented no evidence to specify that Claimant's education program does not fit that eligibility category.

Following examination of that eligibility criterion the Department representative argued that Claimant is still not eligible because he is not employed 20 hours or more per week. The Department policy cited above clearly states "In order for a person in student status to be eligible, they must meet **one** of the following criteria:" The policy does not require a student to meet multiple listed criteria to be eligible, only **one**.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly close Claimant's Food Assistance Program (FAP) case beginning March 1, 2012, because he was an ineligible student.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **REVERSED**.

It is further ORDERED that Claimants Food Assistance Program (FAP) case be reinstated and any benefits he was otherwise eligible for, but did not receive due to this incorrect action, will be supplemented.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 9, 2012

Date Mailed: April 9, 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.

GFH/tb

cc:

