

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

IN THE MATTER OF:

██████████
██████████ ST
TAYLOR, MI 48180

Reg. No.: 201339072
Issue No.: 3019
Case No.: ██████████
Hearing Date: May 2, 2013
County: Wayne County (#18)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted on Thursday May 2, 2013 from Detroit, Michigan. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included ██████████ (Eligibility Specialist) and ██████████ (Assistant Payment Supervisor).

ISSUE

Whether the Department properly terminated the Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The Claimant was an ongoing FAP recipient as a full-time student with no dependents.
2. On January 30, 2013, the Department received the Claimant's Semi Annual Contact Report indicating that she was no longer working. (Exhibit 1)
3. On March 22, 2013, the Department sent Claimant Notice of Case Action that her FAP case would close effective March 1, 2013 due to not being an eligible student.

4. On April 3, 2013, the Department received the Claimant written hearing request protesting the closure of the FAP benefits.

CONCLUSIONS OF LAW

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

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 Mich Admin Code, R 400.3001 through R 400.3015.

For FAP purposes, 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. A person is in student status if the person is age 18 through 49 and enrolled half-time or more in a post secondary school. BEM 245 (January 2013), p. 3. In order for a person in student status to be eligible, they must meet one specific criteria which includes the following: Receiving FIP; Enrolled in an institution of higher education as a result of participation in certain programs; Physically or mentally unfit for employment.; Employed for at least 20 hours per week and paid for such employment; A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12; and etc... BEM 245, p. 4. In addition, policy provides that non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance. BEM 230b (January 2013), p. 1. Non-deferred adults who are not working or are working less than 30 hours per week must either accept a bona fide offer of employment or participate in activities required to receive unemployment benefits if the client has applied for or is receiving unemployment benefits. BEM 230b, p. 2

In this case, the Claimant no longer met the eligibility criteria for FAP benefits as a full-time student once her employment ended. However, policy provides that clients that meet certain criteria are temporarily deferred from employment-related activity and may be eligible for FAP benefits. BEM 203b, p. 3. Both attending school while working; and being the recipient of unemployment compensation benefits are separate criteria that will allow the Department to defer a client. Here, since the Claimant is receiving unemployment compensation benefits she meets the criteria for deferral. If a client is an applicant or recipient of unemployment benefits, the client must follow through with the unemployment benefits program's procedures and requirements to remain eligible for FAP benefits. BEM 230b, p. 2. Based on the record, the Department did not establish it acted in accordance with policy when it closed the Claimant's FAP benefits for not meeting the student status eligibility criteria for FAP benefits. The Claimant is still

eligible under the unemployment compensation deferral criteria. Accordingly, the Department action is not upheld.

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 not establish it acted in accordance with policy when it closed the Claimant's FAP benefits effective March 1, 2013 due to not being an eligible student.

Accordingly, the Department's FAP decision is hereby, **REVERSED** .

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 reinstate the Claimant's FAP benefits to date of effective closure; and issue a supplement for lost FAP benefits, if otherwise eligible and qualified to receive in accordance with policy.
2. The Department shall verify the Claimant's receipt of unemployment compensation benefits and participation with program requirements.

M. Howie

Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/6/2013

Date Mailed: 5/6/2013

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

MH/hw

cc:

