

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

IN THE MATTER OF:



Reg. No.: 201344989
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: May 30, 2013
County: Wayne County (#19)

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 30, 2013, from Detroit, Michigan. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Specialist).

ISSUE

Whether the Department properly reduced the Claimant's Food Assistance Program (FAP) benefits based on student status ineligibility?

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 a group size of three.
2. Claimant has two dependent children ages 6 and 9 years old.
3. On April 19, 2013, the Department sent Claimant Notice of Case Action that her FAP benefits would be reduced from \$526 to \$367 effective May 1, 2013, due to Claimant being removed from the FAP group because she is an ineligible student.
4. On April 26, 2013 the Department received Claimant's written hearing request protesting the reduction of her 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 child under age 12; and etc... BEM 245.

In this case, the Department determined that Claimant no longer met the eligibility criteria for FAP benefits as a student, based on Claimant's FIP benefits ending. As a result Claimant was removed from the FAP group resulting in the reduction of FAP benefits. Claimant is a single parent of two children ages 6 & 9 who is enrolled in a post-secondary education program on a full-time basis. As such, Claimant meets one of the above listed criteria to be eligible for FAP assistance in student status. The Department worker testified that other eligibility criteria were not considered prior to case action. On this record, the Department did not establish it acted in accordance with policy when it removed Claimant from the FAP group resulting in reduction in benefits based on Claimant being an ineligible student.

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 act properly when it reduced the Claimant's FAP benefits effective May1, 2013.

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 the amount in effect prior to case action May 1, 2013; and issue a supplement for lost FAP benefits Claimant was otherwise eligible and qualified to receive in accordance with policy.

M. Howie

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

Date Signed: 6/6/2013

Date Mailed: 6/6/2013

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

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cc:

