

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201329947
Issue No.: 3016
Case No.: [REDACTED]
Hearing Date: March 19, 2013
County: SSPC-West 98

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 three-way telephone hearing was held on March 19, 2013 from Lansing, Michigan. Claimant personally appeared via telephone and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) based on 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. On January 28, 2013, Claimant applied for Food Assistance Program (FAP) benefits.
2. On February 4, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied Claimant's application due to Claimant's ineligible student status.
3. On February 15, 2013, Claimant filed a hearing request, protesting the denial of the application.

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 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 1997 AACRS R 400.3001-3015.

Effective April 1, 2011, the Department had a policy change regarding FAP eligibility for students. 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 a: (i) vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245.

In order for a person in student status to be eligible for FAP benefits, they must meet **one** of the following criteria:

- (1) Receiving FIP benefits;
- (2) Enrolled in an institution of higher education as a result of participation in an approved employment-related activities, a JTPA program, a program under Section 236 of the Trade Readjustment Act of 1974, or another State or local government employment and training program;
- (3) Physically or mentally unfit for employment;
- (4) Employed for at least 20 hours per week and paid for such employment;
- (5) 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;
- (6) Participating in an on-the-job training program;¹
- (7) 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;²

¹ 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. BEM 245.

² 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: (i) starts the month the school term begins or the month work study is approved, whichever is later; (ii) 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; (iii) 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. BEM 245.

- (8) Providing more than half of the physical care of a group member under the age of six;
- (9) 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 or participate in a state or federally-financed work study program during the regular school year;
- (10) 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.

A person remains in student status while attending classes regularly. BEM 245. 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.

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 the Department properly denied Claimant's FAP application. This Administrative Law Judge believes that Claimant told the Department during a telephone interview that he was a student at Westshore Community College and that he was not working. Claimant was clearly not eligible for FAP based on his student status. Accordingly, the Department properly closed Claimant's FAP case due to student status ineligibility.

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.

Accordingly, the Department's FAP decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 25, 2013

Date Mailed: March 26, 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

CAP/cr

cc:

