

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 2013-68364
Issue No(s): 2000; 3016
Case No.: ██████████
Hearing Date: November 13, 2013
County: SSPC-East (98)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, APS.

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) application?

Did the Department properly deny Claimant's Medical Assistance (MA) (Adult Medical Care Program (AMP) application?

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 MA- AMP and FAP on September 3, 2013.
2. The Department denied Claimant's FAP application because he was a full-time student and was not employed earning income.
3. On September 6, 2013, Claimant requested a hearing regarding FAP and MA.
4. At the hearing, Claimant stated he no longer requested a hearing regarding MA.

CONCLUSIONS OF LAW

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

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

BEM 245, pp. 3, 4 instructs that a person is in student status if he is age 18 through 49 and enrolled half-time or more in a college. In order for a person in student status to be eligible for FAP, he must be employed for at least 20 hours per week and be paid for such employment, or meet the other qualifications found in BEM 245.

In the present case, Claimant did not deny that at the time of his application for FAP, he was 37 years old (Exhibit 1, p. 1), he was attending a community college full time, and he was not employed. Claimant did not claim any of the other qualifying events under BEM 245.

The Department was therefore correct in denying Claimant's FAP application due to his student status.

Claimant raised the issue of his requesting FAP benefits being continued until the time of the hearing. This Administrative Law Judge will not order those benefits to be reinstated. Since Claimant was not eligible for FAP, had Claimant received benefits awaiting the hearing, he would be obliged to pay back the Department for receipt of those benefits. "When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI." BAM 700, p. 1

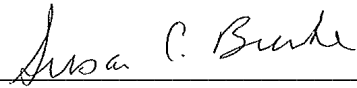
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Claimant's FAP application..

In addition, Claimant stated at the hearing that he no longer requested a hearing regarding MA/AMP.

DECISION AND ORDER

Accordingly, the Department's FAP decision is AFFIRMED.

It is further ORDERED that Claimant's request for hearing regarding MA/AMP is hereby DISMISSED, pursuant to Claimant's request at the hearing.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 19, 2013

Date Mailed: November 19, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

2013-68364/SCB

If submitted by mail, the written request must be addressed as follows:

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

SCB/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]