

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

**IN THE MATTER OF:**

██████████  
██████████  
██████████

Reg. No.: 2013-68668  
Issue No.: 3025  
Case No.: ██████████  
Hearing Date: November 6, 2013  
County: Wayne (82-55)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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, an in-person hearing was held on November 6, 2013, from Hamtramck, Michigan. Participants on behalf of Claimant included Claimant; ██████████

██████████  
██████████ Participants on behalf of the Department of Human Services (Department) included ██████████

**ISSUE**

Did the Department properly deny Claimant's application for 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. On August 9, 2013, Claimant applied for FAP benefits for herself and her 18-year-old son.
2. The August 9, 2013, application was denied.
3. On August 30, 2013, Claimant reapplied for FAP benefits for only herself.
4. On August 30, 2013, the Department sent Claimant a Notice of Case Action denying the FAP application because Claimant was not an eligible alien.

5. On September 11, 2013, Claimant filed a request for hearing disputing the Department's denial of her FAP application.

### **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.

Additionally, Claimant requested a hearing concerning the Department's denial of her FAP application. In its hearing summary, the Department only referenced the FAP application Claimant submitted on August 30, 2013, requesting FAP benefits for only herself. However, testimony at the hearing established that Claimant had also applied for FAP benefits on August 9, 2013, for both herself and her 18-year-old son. The August 30, 2013, Notice of Case Action denied Claimant's August 30, 2013, FAP application because Claimant was not an eligible alien. At the hearing, Claimant's son confirmed that the August 9, 2013, application was also denied for ineligible alien status.

To receive FAP benefits, a person must be a U.S. citizen or have an acceptable alien status, and individuals who do not meet this requirement are disqualified from FAP eligibility. BEM 225 (July 2013), p. 1. Acceptable alien status includes individuals who are permanent resident aliens and meet one of the following criteria: (i) have been in the U.S. for five years; (ii) meet the Social Security Credits (SSC) requirements; (iii) have permanent residency cards (I-551) with a class code of RE, AS, SI, AM or SQ; (iv) are under 18 years of age; or (v) lawfully residing in the United States and disabled. BEM 225, pp. 3, 5-6, 8, 9.

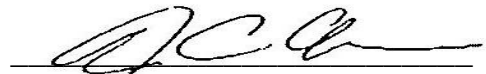
In this case, Claimant's and her son's permanent residency cards showed a [REDACTED] [REDACTED] date of entry into the United States [REDACTED]. Claimant's son confirmed that he, Claimant and his 23-year-old sister had entered the United States [REDACTED] [REDACTED]. Therefore, no one in the household had resided in the United States for at least five years. The Department produced Claimant's and her son's permanent residency cards, which did not show any qualifying class code of RE, AS, SI, AM or SQ; and Claimant's son confirmed that the household did not come into the United States as refugees, under asylum, or under any other special or unusual circumstances. Because Claimant had not worked, she would not have acquired any SSCs necessary for FAP eligibility. See BEM 225, pp. 12-13. Claimant's son testified that he turned 18 years old in [REDACTED]; therefore, he was not eligible for FAP benefits

as of the August 9, 2013, application. Finally, there was some indication on the record that Claimant had medical issues. However, to be “disabled” and eligible for FAP benefits, an individual must show that she is receiving Social Security Insurance (SSI) benefits, Retirement, Survivors, and Disability Insurance (RSDI) benefits, or Medicaid based on a disability or that she is a veteran (or spouse or child of a veteran) who is determined to have a total disability by the Veteran’s Administration. Claimant did not meet any of these criteria to establish that she was disabled.

Under the evidence presented, neither Claimant nor her son had acceptable alien status to establish FAP eligibility. Thus, the Department acted in accordance with Department policy when it denied Claimant’s FAP application.

**DECISION AND ORDER**

Accordingly, the Department’s decision is AFFIRMED.



**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: November 12, 2013

Date Mailed: November 13, 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.

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

Attention: MAHS Rehearing/Reconsideration Request

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

ACE/pf

cc: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]