

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-6029
Issue No(s): 3016
Case No.: [REDACTED]
Hearing Date: November 7, 2013
County: Ingham

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 7, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] FIP Specialist.

ISSUE

Did the Department properly close the Claimant's FAP case because she was determined to be an ineligible student?

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 receiving FAP as an eligible student based on receiving cash assistance through the Family Independence Program (FIP) program.
2. On September 12, 2013, the Claimant requested closure in writing of the cash assistance.
3. On September 14, 2013, the Department issued a Notice of Case Action stating the Claimant's FAP case would close October 1, 2013, because she is not an eligible student. (Exhibit 1, pages 3-4)
4. On October 3, 2013, the Claimant filed a request for hearing contesting the FAP closure. (Exhibit 1, page 2)

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, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. A Claimant must also report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105

BEM 245 sets out the criteria for a person in student status to be eligible for FAP, which include but are not limited to receiving FIP, being physically or mentally unfit for employment, and working at least 20 hours per week.

The Claimant was receiving FAP as an eligible student based on receiving cash assistance through the FIP program. On September 12, 2013, the Claimant requested closure in writing of the cash assistance. The Claimant did not meet any of the other BEM 245 criteria to be considered an eligible student. On September 14, 2013, the Department issued a Notice of Case Action stating the Claimant's FAP case would close because she is not an eligible student. (Exhibit 1, pages 3-4)

The Claimant testified that she now has some understanding of the FAP criteria for eligible students. The Claimant asked if there were any exceptions because she is pregnant and is always sick. The Claimant stated she is only making it to school a couple of times per week for an hour. The Claimant believes that if she asked her doctor he would indicate she cannot work. The Claimant testified she needs the FAP to feed herself and her unborn child.

Based on the information available to the Department, the Claimant did not meet any of the other criteria to be considered an eligible student for FAP when she voluntarily closed her FIP case. Rather, on a July 16, 2013, application for State Emergency Relief the Claimant reported she was in school full time, is not disabled and has no job income. (Exhibit 1, pages 1-17) There was no evidence that the Claimant had reported any changes or additional information to the Department that indicated she may have met any of the other criteria to be considered an eligible student for FAP when the September 14, 2013, Notice of Case Action regarding the FAP closure was issued.

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 closed the Claimant's FAP case.

DECISION AND ORDER

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

Collen Lack

Collen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 13, 2013

Date Mailed: November 13, 2013

NOTICE OF APP EAL: 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.

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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

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

CL/las

cc:

