

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-7295
Issue No(s): 3019
Case No.: [REDACTED]
Hearing Date: November 21, 2013
County: Macomb-36

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 three-way telephone hearing was held on November 21, 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] Eligibility Specialist, [REDACTED] Hearing Coordinator, and [REDACTED] back up Hearing Coordinator, were also present at the Department office the Claimant participated from.

ISSUE

Did the Department properly close the Claimant's Food Assistance program (FAP) case because of institutional 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. The Claimant was an ongoing recipient of FAP benefits.
2. On September 26, 2013, the Department received a DHS 2565 Facility Admission Notice indicating the Claimant was admitted to a nursing facility and the admission was expected to be 30 days or longer. (Exhibit 2)
3. On September 27, 2013, the Department issued a Notice of Case Action to the Claimant stating the FAP case would close effective November 1, 2013, because the Claimant was not eligible due to institutional status. (Exhibit 3)
4. On October 17, 2013, the Claimant filed a request for hearing protesting the Department's action.

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, institution means an establishment furnishing food, shelter and some treatment or services to more than three people unrelated to the proprietor. BEM 265

A person in a facility which provides its residents a majority of their meals can qualify for FAP if the facility is either authorized by the Food and Nutrition Service (FNS) to accept Food Assistance or an eligible group living facility as defined in BEM 615. The resident must also meet the criteria in the ELIGIBLE PERSONS section in BEM 617. BEM 265

On September 26, 2013, the Department received a DHS 2565 Facility Admission Notice indicating the Claimant was admitted to a nursing facility and the admission was expected to be 30 days or longer. (Exhibit 2) There was no evidence that the nursing facility was either authorized by FNS to accept food assistance or an eligible group living facility as defined in BEM 615.

The Claimant's testimony confirmed that she was admitted to the nursing facility the end of September 2013 and indicated she would be discharged on Saturday November 23, 2013. The Claimant testified she is going home, but has no food and no money. The Claimant also noted she no longer has a car.

The Department properly determined the Claimant's FAP case must be closed due to institutional status based on the September 26, 2013, DHS 2565 Facility Admission Notice indicating the Claimant was admitted to a nursing facility and the admission was expected to be 30 days or longer. As the Eligibility Specialist confirmed on the record, the Claimant may wish to re-apply for FAP as soon as she is discharged home.

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 based on institutional status.

DECISION AND ORDER

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

Colleen Lack

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

Date Signed: November 26, 2013

Date Mailed: November 26, 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.

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

CL/las

cc:

