

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20144003
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: November 13, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly closed the Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing Food Assistance Program (FAP) recipient.
2. On July 16, 2013, the Claimant reported to the Department that she had started attending school on a full time basis as of July 1, 2013.
3. On July 16, 2013, the Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits because she did not meet the eligibility requirements as a full time student.
4. The Department received the Claimant's request for a hearing on October 3, 2013, protesting the closure of her Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

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.

Non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance. A person enrolled in a post-secondary education program may be in student status. Department of Human Services Bridges Eligibility Manual (BEM) 230B (October 1, 2013), pp 2-6.

In order for a person in student status to be eligible to receive Food Assistance Program (FAP) benefits, they must meet one of the criteria listed in Department of Human Services Bridges Eligibility Manual (BEM) Item 245.

A person receiving post-secondary educational education may qualify for Food Assistance Program (FAP) benefits if that person is physically or mentally unfit for employment. BEM 245, p 4.

Whether a person is physically or mentally unfit for work can be verified by a statement from a M.D. or a D.O. BEM 245, p. 10.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required for a reported change affecting eligibility or benefit level. The Department is required to tell the client what verification is required, how to obtain it, and the due date. Department of Human Services Bridges Administrative Manual (BAM) 130 (July 1, 2013), pp 1-8.

The Claimant was an ongoing Food Assistance Program (FAP) recipient when she reported to the Department that she would be attending school full time as of July 1, 2013. On July 16, 2013, the Department determined that the Claimant did not meet the criteria listed in BEM 245 to remain eligible for Food Assistance Program (FAP) benefits.

The Claimant argued that she was unable to work due to illness.

The Claimant testified that she reported to the Department that she was unable to work due to her physical condition.

This Administrative Law Judge finds that the Department had a duty to request verification from the Claimant to determine whether she meets the criteria listed in BEM 245. Based on the evidence and testimony available during the hearing, the Department failed to establish that it requested verification from the Claimant that would established her eligibility to receive Food Assistance Program (FAP) benefits. Therefore, the Department's closure of Food Assistance Program (FAP) benefits on July 16, 2013, was not a proper application of Department policy.

DECISION AND ORDER

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 did not act in accordance with Department policy when it closed the Claimant's Food Assistance Program (FAP) benefits.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Provide the Claimant with a ten-day period to provide verification that she was physically unfit for work as of July 1, 2013.
2. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of August 1, 2013.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 11/15/2013

Date Mailed: 11/15/2013

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

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

KS/sw

cc:

