

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201334563
Issue No.: 3016
Case No.: [REDACTED]
Hearing Date: April 16, 2013
County: SSPC-EAST-DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on April 16, 2013. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly deny Claimant's February 19, 2013 Food Assistance Program (FAP) application?

FINDINGS OF FACT

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

- (1) On January 16, 2013, Claimant submitted an application for Food Assistance Program (FAP) benefits. Claimant was sent a Notice of Case Action (DHS-1605) stating her application was denied because she was an ineligible [REDACTED]
- (2) On February 19, 2013, Claimant submitted an application for Food Assistance Program (FAP) benefits.
- (3) On February 26, 2013, Claimant was interviewed via telephone as part of an eligibility determination. Claimant reported she was a full time student seeking [REDACTED] [REDACTED] and worked 10 hours per week. Claimant was sent a Notice of Case Action (DHS-1605) stating her application was denied because she was an [REDACTED] [REDACTED]
- (4) On March 11, 2013, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The section of policy applicable to Claimant, Department of Human Services Bridges Eligibility Manual (BEM) 245 (2013) page 3, states that in order to be eligible for Food Assistance Program (FAP) benefits a person in [REDACTED] status must be employed for at least 20 hours per week and paid for such employment. Claimant does not assert that she meets the Department's Food Assistance Program (FAP) student eligibility requirement. Claimant asserts that the Department's policy is contrary to Federal law and is unconstitutional because it creates a suspect class. Claimant was informed that the issues she raises would be included in this Decision & Order. However, these issues are not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly denied Claimant's February 19, 2013 Food Assistance Program (FAP) application.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 4/24/13

Date Mailed: 4/29/13

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error , or other obvious errors in the hearing decision that effect the substantial rights of the claimant;
- the failure of the ALJ to address other relevant issues in the hearing decision

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

GFH/tb

cc:

