

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-49130
Issue No.: 3014
Case No.: ██████████
Hearing Date: August 8, 2013
County: Gogebic

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, County Director, ██████████ FIM, and ██████████, ES.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case?

FINDINGS OF FACT

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

1. Claimant received benefits for FAP.
2. On June 1, 2013, the Department closed Claimant's FAP case because "a group member is not or is no longer living with you." (Exhibit 1, p. 3)
3. On May 8, 2013, the Department sent Claimant notice of the closure.
4. At the time Claimant was receiving benefits, Claimant was in a group size of one.
5. On May 14, 2013, Claimant filed a hearing request, protesting the closure of his FAP case.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

BEM 212, p. 1 instructs:

Bridges will help determine who must be included in the Food Assistance Program (FAP) group prior to evaluating the non financial and financial eligibility of everyone in the group.

FAP group composition is established by determining all of the following:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately.
4. Whether the person(s) resides in an eligible living situation; see **LIVING SITUATIONS** in this item.

In the present case, Claimant left the State of Michigan in the month of March of 2013, but returned, more than 30 days later. The Department closed Claimant's case for the reason that "a group member is not or is no longer living with you." (Exhibit 1, p. 3) However, Claimant was in a group of one, so he was still "living with" himself, even if he left the State of Michigan. The Department points to BEM 212, p. 2, which speaks to whether a person is temporarily or permanently absent from the group. Again, since Claimant was in a group size of one, he cannot be absent from his group, as he is still "living with" himself. The Department is essentially arguing a residency requirement as the basis for its closure of Claimant's case, as Claimant was absent from the State of Michigan for a period of time. However, the Department did not cite a residency reason for closing Claimant's case in its Notice of Case Action. (Exhibit 1, p. 3)

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated within the record, the Administrative Law Judge concludes that the Department improperly closed Claimant's FAP case.

It is noted that in the request for hearing, Claimant marked all boxes for all benefits, but the only negative action taken in the Notice of Case Action was with respect to FAP.

Furthermore, Claimant's requests for hearing regarding other programs were addressed in hearings in other registration numbers heard on this date and on June 19, 2013.

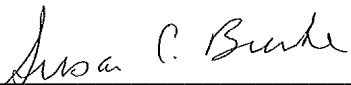
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated within the record, finds that the Department did not act properly.

Accordingly, the Department's FAP decision is REVERSED for the reasons stated within the record.

THE DEPARTMENT SHALL BEGIN THE PROCESS OF THE FOLLOWING STEPS WITHIN TEN DAYS OF THE MAILING OF THIS ORDER:

1. Initiate reinstatement of Claimant's FAP case, effective June 1, 2013, if Claimant is otherwise eligible for FAP.
2. Issue FAP supplements, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 19, 2013

Date Mailed: August 19, 2013

NOTICE OF APPEAL: 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).

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.

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

SCB/tm

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