

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

IN THE MATTER OF:

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██████████████████████████████

Reg. No.: 2013-52361
Issue No.: 3016
Case No.: ██████████
Hearing Date: July 10, 2013
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 July 10, 2013, from Detroit, Michigan. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Worker, and ██████ ██████ Assistance Payment Supervisor.

ISSUE

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

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FAP benefits.
2. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed.
3. On June 7, 2013 the Department sent Claimant a Notice of Case Action, informing him that his FAP case closed effective June 1, 2013 on the basis that he is not an eligible student. (Exhibit 5)
4. On June 13, 2013 Claimant filed a hearing request, disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are found in the Department of Human Services 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 Mich Admin Code, Rule 400.3001-3015.

Additionally, Claimant was an ongoing recipient of FAP benefits. In connection with a redetermination, Claimant's eligibility for FAP benefits was reviewed. Claimant submitted verifications to the Department which included paystubs from his part time job and proof of his enrollment in school. (Exhibit 1 and Exhibit 2). On June 7, 2013 the Department sent Claimant a Notice of Case Action, informing him that his FAP case closed effective June 1, 2013 on the basis that he is not an eligible student. (Exhibit 5) A person enrolled in a post-secondary education program may be in student status and eligible for FAP assistance. A person in student status must meet certain criteria in order to be eligible for FAP benefits. BEM 245 (January 2013), p.1.

For FAP purposes, a person is in student status if he is age 18 through 49 and enrolled half-time or more in a: (i) vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate or (ii) regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245, p. 1.

At the hearing, Claimant testified that he is only enrolled in one class this semester. Claimant stated that although the class schedule he provided the Department indicates that he is enrolled in more than one class, it is not accurate, as he dropped the other class in mid May 2013. Claimant testified that prior to the redetermination, he contacted the Department and left a message informing his worker that he had dropped the class and was only enrolled in one class for the summer semester, but received no return phone call. Claimant confirmed that he did not provide the Department with verification of his enrollment in one class, putting him below the minimum half time enrollment requirement for eligible student status. BEM 245, p. 3.

Clients who are employed for at least 20 hours per week and paid for such employment are considered eligible students for FAP purposes. BEM 245, p. 3. The Department testified that because Claimant does not work a full 20 hours per week, he is not eligible to receive FAP benefits. The paystubs provided to the Department by Claimant verify that he works less than 20 hours per week. (Exhibit 1). Claimant confirmed that for the pay periods in which he provided his paystubs, he did not work a full 20 hours a week but stated this is abnormal, as he usually does work 20 hours per week.

Claimant testified that he is not physically or mentally unfit for employment and that although he does participate in on the job training, it is not related to his school studies. Claimant also is not a single parent nor does he provide more than half of the physical care of a group member under the age of six. BEM 245, pp.2-4. Based on the above information and additional testimony provided at the hearing by both Claimant and the Department, Claimant does not meet any of the criteria found in BEM 245; and is therefore not eligible to receive FAP benefits. BEM 245, pp.2-4.

Claimant raised an additional concern regarding whether or not he should have received FAP benefits for the month of June 2013. FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210 (November 2012), p 2. Timely notice of the FAP case closure is not required if the FAP certification period has expired. BAM 220 (November 2012), p. 4. In this case, Claimant's certification period expired on May 31, 2013, and a new benefit period was not certified for June 1, 2013 because at redetermination, the Department determined that Claimant was not an eligible student. (Exhibit 4). Therefore, the Department properly closed Claimant's FAP case and provided him with notice of the closure, as he is not an eligible student.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in accordance with Department policy when it closed Claimant's FAP case due to Claimant not being an eligible student. Accordingly, the Department's decision is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 17, 2013

Date Mailed: July 17, 2013

NOTICE: 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 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 affect the substantial rights of the claimant:
 - 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

ZB/cl

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