

**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.: 2013-57827
Issue No.: 3016
Case No.: ██████████
Hearing Date: August 12, 2013
County: Wayne (35)

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 August 12, 2013, from Detroit, Michigan. Claimant and ██████████ appeared and testified. Participants on behalf of the Department of Human Services (Department) included ██████████ Assistance Payment Worker.

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, the Department reviewed Claimant's eligibility for FAP.
3. On May 30, 2013 the Department sent Claimant a Notice of Case Action, informing her that her FAP case would be closing effective June 1, 2013 on the basis that she is not an eligible student. (Exhibit 1)
4. On July 5, 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.

As a preliminary matter, Claimant's hearing request indicated that she requested a hearing with respect to her cash assistance program; however, at the hearing Claimant testified that this was an error and that she checked the wrong box. Claimant stated that she only wished to proceed with the hearing with respect to her FAP case.

Additionally, Claimant was an ongoing recipient of FAP benefits. In connection with a redetermination, Claimant's eligibility for FAP benefits was reviewed. On May 30, 2013 the Department sent Claimant a Notice of Case Action, informing her that her FAP case would be closing effective June 1, 2013 on the basis that she is not an eligible student. A person who is in student status and does not meet the criteria in BEM 245 is a non-group member and is not eligible to receive FAP benefits. BEM 212 (November 2012), p. 8. A person enrolled in a post-secondary education program may be in student status and eligible for FAP assistance, provided that certain eligibility criteria are met. BEM 245 (January 2013), pp.1.

At the hearing, Claimant testified that she is enrolled as a student and that she is not employed. Being physically or mentally unfit for employment would allow for a person to be eligible to receive FAP benefits and remain in student status. BEM 245, pp. 3-4. According to BEM 245, an award letter or other verification of eligibility for disability benefits issued by government or private sources is enough to verify that a person is physically or mentally unfit for employment. Claimant testified that she is receiving State Disability Assistance (SDA) based on an established disability, which is confirmed by the Notice of Case Action (Exhibit 1). Because Claimant is receiving SDA based on her disability, she meets the criteria required for her to be eligible to receive FAP benefits and still be in student status. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's FAP case on the basis that she 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 did not act in accordance with Department policy when it closed Claimant's FAP case due to her not being an eligible student. Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate reinstatement of Claimant's FAP case effective June 1, 2013 in accordance with Department policy and consistent with this Hearing Decision; and
2. Begin issuing supplements to Claimant for any FAP benefits that she was entitled to receive but did not from June 1, 2013 ongoing in accordance with Department policy.



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

Date Signed: August 21, 2013

Date Mailed: August 21, 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:

2013-57827/ZB

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ZB/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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