

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

IN THE MATTER OF:



Reg. No.: 2014-32782
Issue No(s): 3001, 5000
Case No.: [REDACTED]
Hearing Date: April 17, 2014
County: Macomb County DHS #12

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 April 17, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator and Eligibility Specialist.

ISSUE

Did the Department properly deny the Claimant's application for Food Assistance Program (FAP)?

FINDINGS OF FACT

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

1. On January 15, 2014, Claimant applied for FAP.
2. On the application, Claimant reported he is 23 years old, not working because of injuries and attending college half time.
3. On January 23, 2014, the Department issued a Notice of Case Action to Claimant stating FAP was denied because the Claimant is not an eligible student.
4. On March 17, 2014, Claimant filed a hearing request¹ protesting the FAP denial.

¹ On the March 17, 2014 Request for Hearing Claimant also marked he was contesting Department actions regarding Cash and Medicaid. A separate hearing will be scheduled regarding disability for the Cash and Medicaid benefit programs. An additional hearing request was filed on Claimant's behalf on March 25, 2014 that contested Department actions with the same programs marked on Claimant's request for hearing and also the State Emergency Relief (SER) program. However, that individual does not have any authorization to represent Claimant. Further, it

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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 is in student status if he is age 18-49 and enrolled half time or more in regular curriculum at a college or university that offers degree programs. The criteria for a person in student status to be eligible for FAP includes but is not limited to being physically or mentally unfit for employment, and working at least 20 hours per week. BEM 245.

The Claimant's FAP application was denied because he was determined to be an illegible student. On the January 15, 2014, FAP application Claimant reported he is 23 years old, not working because of injuries and attending college half time. The evidence indicates the Department did not determine Claimant was not disabled until after the January 23, 2014 FAP denial notice was issued.

Claimant explained that at the time he submitted the January 15, 2014 FAP application he was unsure if he was going to attend classes the next semester. Claimant stated he did not end up attending classes and that he let the Department worker know this during the in-person interview. Claimant testified the Department worker then told him he would be approved for FAP and what his monthly benefit allotment would be.

The Hearing Facilitator testified she was not able to locate any notes from the in-person interview.

The Department did not present sufficient evidence of how Claimant's reported inability to work due to injuries was considered at the time of the FAP denial nor was there any documentation or testimony from the worker that conducted the in-person interview to counter Claimant's testimony that he reported he was not going to attend classes.

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 failed to

was confirmed Claimant had not applied for SER when the March 2014 requests for hearing were filed. Accordingly, there was no SER determination for this ALJ to review for the March 2014 appeals. Further, Claimant testified he was comfortable withdrawing the SER portion of the appeal. Accordingly, the SER portion of Claimant's appeal is DISMISSED.

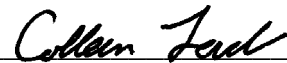
satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant's application for FAP.

DECISION AND ORDER

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. Re-process Claimant's January 15, 2014 FAP application and re-determine eligibility, to include requesting any needed verification(s), in accordance with Department policy.
2. Issue Claimant written notice of the FAP determination in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 2, 2014

Date Mailed: May 2, 2014

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.

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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

CL/hj

cc:

