

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201426207
Issue No(s): 3001
Case No.: [REDACTED]
Hearing Date: March 18, 2014
County: Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 March 18, 2014, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Human Services (Department) included ES [REDACTED] and AP Supervisor [REDACTED].

ISSUE

Did the Department properly deny Claimant's December 13, 2013, Food Assistance Program (FAP) application due to student status?

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 December 13, 2013, Claimant submitted an application for Food Assistance Program (FAP) benefits. Claimant is a full time student in college.
2. On December 27, 2013, Claimant submitted four weekly pay check stubs.
3. On December 27, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which stated her application was denied because she was not an eligible student.

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.

Claimant's four weekly pay check stubs showed she worked 20.17 hours, 20.27 hours, 13.58 hours, and 28.08 hours. The Department asserts Claimant is not eligible in accordance with Department of Human Services Bridges Eligibility Manual (BEM) 245 School Attendance and Student Status (2013). Page 4 of BEM 245 conditions Food Assistance Program (FAP) eligibility for a person in student status on being "employed for at least 20 hours per week." Claimant asserts she always works an average of 20 hours per week. The four weekly pay check stubs Claimant submitted show an average of 20.53 hours of employment per week.

It is noted that Department of Human Services Bridges Eligibility Manual (BEM) 505 Prospective Budgeting/Income Processing (2013) pages 5 & 6 indicate the goal of using past income is to find an accurate reflection of an applicant's monthly income. It even directs using the past 60 or 90 days of income in the case of fluctuating or irregular income.

The plain language in BEM 245 does not state a requirement to work at least 20 hours absolutely every week. Interpretation of such a stringent requirement is inconsistent with the obvious intent found in other sections of Department policy. Nothing in this record or the BRIDGES Manuals convinces this Administrative Law Judge that this position on Claimant's employment verification is correct.

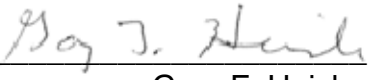
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's December 13, 2013, Food Assistance Program (FAP) application due to student status.

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. Reinstate Claimant's December 13, 2013, Food Assistance Program (FAP) application and process it in accordance with Department policy.



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

Date Signed: March 25, 2014

Date Mailed: March 25, 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.

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

201426207/GFH

GFH/hj

cc:

