

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

**IN THE MATTER OF:**



Reg. No.: 2014-34462  
Issue No(s): 3001  
Case No.: [REDACTED]  
Hearing Date: May 12, 2014  
County: Wayne (17)

**ADMINISTRATIVE LAW JUDGE:** Susan C. Burke

**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 May 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. The Department of Human Services (Department) did not participate. It is noted that prior to the hearing, the Administrative Law Judge attempted to contact the Department for the hearing with the phone number given by the Department, and received a voicemail message. The Administrative Law Judge left a voicemail message, instructing the Department that if it wanted to participate, then it was to contact the Detroit office Michigan Administrative Hearings. The Department did not appear before or during the hearing, which was commenced at approximately 3:09 p.m.

**ISSUE**

Did the Department properly close Claimant's Food Assistance Program (FAP) case due to Claimant not being a Michigan resident?

**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 was a recipient of FAP
2. Claimant resided in Michigan.
3. Claimant has a Michigan driver's license.

4. In [REDACTED] of 2013, Claimant went to [REDACTED] to attempt to secure collection on a judgment.
5. Claimant stayed in temporary housing in [REDACTED]
6. Claimant did not receive food assistance from the State of [REDACTED]
7. Claimant intended to return to Michigan.
8. On [REDACTED], the Department issued a Notice of Case Action, closing Claimant's FAP case due to Claimant not meeting Michigan residency requirements.

### **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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

BEM 220 (2/2014) instructs that to be eligible for assistance in Michigan, a person must be a Michigan resident. For FAP purposes, a person is considered a resident while living in Michigan for any purpose other than a vacation, even if there is no intent to remain in the state permanently or indefinitely. *Id.* BEM 220 does not set a time limit for temporary absences from Michigan for FAP eligibility. It is noted that BEM 220 specifically addresses temporary absences for the Family Independence Program, State Disability Assistance program and Medical Assistance program.

The Department cites BEM 212 (2/2014) for the proposition that FAP eligibility ceases for persons who are absent from Michigan for more than thirty days. However, BEM 212 addresses group composition, that is, who is to be included in a food assistance group: "A person who is temporarily absent from the group is considered living with the group." *Id.* However, since Claimant is in a group size of one, he cannot be temporarily or permanently absent from the FAP group. Thus, BEM 212 does not apply in this case.

Claimant testified credibly that he maintains a Michigan driver's license, he intends to return to Michigan in [REDACTED] of 2014, that he went to [REDACTED] only to pursue collection on a judgment, and that he did not intend to live in [REDACTED]. Claimant further testified that

he did not receive food assistance while he was in [REDACTED] and that he stayed in temporary housing in [REDACTED]

Based on the above discussion, it is concluded that Claimant was a Michigan resident at the time of closure of his case on [REDACTED], and that Claimant was a resident of Michigan at the time of the Notice of Case Action issued on [REDACTED].

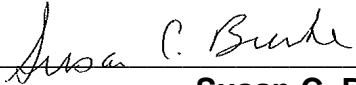
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FAP case due failing to meet Michigan residency requirements.

### **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 FAP case, effective [REDACTED], if Claimant is otherwise eligible for FAP benefits.
2. Issue FAP supplements, in accordance with Department policy.

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

Date Signed: 5/20/2014

Date Mailed: 5/20/2014

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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/hw

cc:

