

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

IN THE MATTER OF:

██████████
████████████████████
██████████

Reg. No.: 14-004169
Issue No.: 3001
Case No.: ██████████
Hearing Date: July 10, 2014
County: WAYNE- 35 (REDFORD)

ADMINISTRATIVE LAW JUDGE: LYNN M. FERRIS

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 July 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ Hearing Facilitator.

ISSUE

Did the Department properly deny the Claimant's Food Assistance (FAP) Application due to student status and not working at least 20 hours?

FINDINGS OF FACT

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

1. The Claimant applied for FAP and was denied by the Department by Notice of Case Action dated 5/16/14, due to Claimant not working at least 20 hours.
2. At the time of the application, the Claimant was enrolled in school (college) full-time and taking online courses.
3. The Claimant indicated that she could not work due to a mental impairment resulting from bi-polar disorder. The Claimant advised the caseworker of her condition at the application interview.
4. The Claimant requested a timely hearing on May 28, 2014 protesting the Department's denial of her FAP application.

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.

Additionally, the evidence produced at the hearing demonstrated that the Department did not consider the Claimant's claim that she was unable to work due to bipolar disorder when determining her FAP eligibility under the policy governing student status. The Department did not comply with Department policy, as it was required to verify whether the Claimant was mentally unfit for employment as required by BEM 245.

Department policy requires that as regards claims of inability to work due to being mentally unfit that the Department make a determination based on request for verification. The Claimant credibly testified that she informed the Department during the application interview about her condition. The department did not seek verification as to whether the Claimant was mentally unfit to work when determining Claimant's FAP eligibility under the student status policy provisions. BEM 245 requires:

FAP Only

A person is in student status if he is:

- Age 18 through 49 and
- Enrolled half-time or more in a:
 - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - Regular curriculum at a college or university that offers degree programs **regardless** of whether a diploma is required.

In order for a person in student status to be eligible, they must meet one of the following criteria:

- Receiving FIP.

- Enrolled in an institution of higher education as a result of participation in:
 - A JTPA program.
 - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
 - Another State or local government employment and training program.
- Physically or mentally unfit for employment. BEM 245, pp. 3-4 (7/1/14).

The Department also must verify eligibility and provides with respect to determining whether a student is mentally unfit for employment the following:

Physically or Mentally Unfit for Employment:

- Award letter or other verification of eligibility for Retirement, Survivors, and Disability Insurance (RSDI) or Supplemental Security Income (SSI) on the basis of disability.
- Award letter or other verification of eligibility for disability benefits issued by government or private sources.
- Statement from an M.D. or D.O.
- Statement from a psychologist. BEM 245 pp.10.

Thus, based upon the evidence presented at the hearing, it is determined that the Department did properly determine the Claimant's FAP eligibility as an ineligible student, as it did not determine through verification whether the Claimant was mentally unfit for employment as required by Department Policy found in BEM 245.

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 denied the Claimant's FAP application without determining whether the Claimant was unfit for employment due to a mental condition.

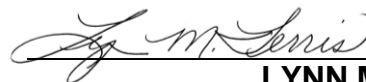
DECISION AND ORDER

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. The Department is ordered to re-register the Claimant's FAP application and determine Claimant's eligibility in accordance with Department policy.
2. The Department shall issue a FAP supplement to the Claimant, if the Claimant is otherwise deemed eligible to receive FAP benefits in accordance with Department policy.



LYNN M. FERRIS

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

Date Signed: **7/16/2014**

Date Mailed: **7/16/2014**

LMF/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]