

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

IN THE MATTER OF:

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

Reg. No.: 14-007751
Issue No.: 3001
Case No.: ██████████
Hearing Date: August 25, 2014
County: WAYNE-DISTRICT (19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 August 25, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective August 1, 2014?

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 an ongoing recipient of FAP benefits. See Exhibit 1, p. 24.
2. Effective October 2013, ongoing, Claimant has been in his current AFC home and he is also disabled.
3. On May 18 2014, Claimant and/or a representative submitted his Health Care Coverage Supplemental Questionnaire (DHS-1004) form (supplemental questionnaire), which indicated he was staying in an Adult Foster Care Home (AFC) as of October 2013. See Exhibit 1, pp. 3-5. The supplemental questionnaire form also indicated that he received Social Security disability income. See Exhibit 1, p. 4.

4. On June 25, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits would close effective August 1, 2014, due to him not being eligible because of institutional status. See Exhibit 1, pp. 16—18.
5. On July 21, 2014, Claimant and his Authorized Hearing Representative (AHR) filed a hearing request, protesting the FAP benefits. See Exhibit 1, p. 2.

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.

As a preliminary matter, Claimant originally had an AHR who requested his hearing. See Exhibit 1, p. 2. It was discovered during the hearing that Claimant's AHR was not present. Nevertheless, Claimant testified that he waived his right to the AHR and indicated that he would proceed with the hearing.

Residents of institutions can qualify for certain program benefits in limited circumstances. BEM 265 (April 2014), p. 1. A person in a facility which provides its residents a majority of their meals can qualify for FAP if the facility:

- Is authorized by the Food and Nutrition Service (FNS) to accept Food Assistance; or
- Is an eligible group living facility as defined in BEM 615.

BEM 265, p. 2. The resident must also meet the criteria in the ELIGIBLE PERSONS section in BEM 617. BEM 265, p. 2.

Residents of certain group living facilities can qualify for FAP. BEM 615 (July 2013), p. 1. BEM 615 defines the facilities and the programs residents may be eligible for, which includes AFC. BEM 615, p. 1. AFCs must be licensed by the DHS Bureau of Children and Adult Licensing (BCAL) to offer either, or both, of the following levels of care: domiciliary and personal care. BEM 615, p. 1. In order to be eligible for FAP as an AFC home resident, the home must be nonprofit and licensed for 16 or fewer residents. BEM 615, p. 2. Finally, the local office must determine if the group living facility is

acceptable before certifying eligibility for residents. BEM 615, p. 5 (verification requirements).

Additionally, for FAP only, persons residing in an eligible facility as defined in BEM 615 may have to meet special eligibility requirements to receive food assistance benefits. BEM 617 (July 2013), p. 1. Also, the facility may have certain responsibilities regarding its residents who are food assistance applicants or recipients. BEM 617, p. 1. The Department must verify that an AFC home is an eligible facility. BEM 617, p. 1. A resident in an eligible AFC home must be disabled or veteran per BEM 550 Senior/Disabled/Veteran policy. BEM 617, p. 1 (see other eligible person requirements for AFC homes).

In this case, Claimant was an ongoing recipient of FAP benefits. See Exhibit 1, p. 24. On May 18 2014, Claimant and/or a representative submitted his supplemental questionnaire, which indicated he was staying in an AFC home as of October 2013. See Exhibit 1, pp. 3-5. The supplemental questionnaire form also indicated that he received Social Security disability income. See Exhibit 1, p. 4. On June 25, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits would close effective August 1, 2014, due to him not being eligible because of institutional status. See Exhibit 1, pp. 16—18.

At the hearing, Claimant testified that he has been in his current AFC location since October 2013, ongoing. Moreover, Claimant testified that the AFC location provides him with three meals per day. It should be noted that the hearing packet included his previous AFC home. See Exhibit 1, pp. 19-22.

The Department testified that Claimant is living in a licensed AFC facility per the hearing summary; however, the Department appeared to testify during the hearing that it did not verify if it was licensed. See Exhibit 1, p. 1. Nevertheless, the Department did not dispute during the hearing that he was currently at the AFC facility and that he was disabled. See also Case Comments Summary, Exhibit 1, p. 23. Also, the evidence indicated that no Verification Checklist (VCL) was sent to Claimant to verify his AFC facility/institutional status. See Exhibit 1, p. 4.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (April 2014), p. 1. The Department obtains verification when the information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1. The questionable information might be from the client or a third party. BAM 130, p. 1.

The Department tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it request. BAM 130, p. 6.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective August 1, 2014.

First, the evidence presented that Claimant is currently residing in an AFC facility and that he is disabled. As such, even though Claimant is residing in a facility that furnishes him three meals per day, he can still possibly be eligible for FAP benefits. See BEM 617, p. 1. However, as stated above, there are several other requirements for a person residing in an AFC home to receive FAP benefits (i.e., AFC home must be an eligible facility). See BEM 617, p. 1.

Second, the Department was aware of Claimant's institutional status prior to the closure notice. On May 18 2014, Claimant and/or a representative submitted his supplemental questionnaire, which indicated he was staying in an AFC home as of October 2013. See Exhibit 1, pp. 3-5. The local office must determine if the group living facility is acceptable before certifying eligibility for residents. BEM 615, p. 5 and see also BEM 617, p. 1. The evidence failed to present if the Department verified Claimant's FAP eligibility based on his institutional status. See BAM 130, pp. 1-6. Claimant notified the Department of his AFC facility prior to closure notice and it failed to determine if he was eligible based on his institutional status. See BAM 130, pp. 1-6. As such, the Department will reinstate Claimant's FAP benefits and determine his eligibility based on institutional status. See BAM 130, pp. 1-6; BEM 265, pp. 1-2; BEM 615, pp. 1 and 5; and BEM 617, p. 1.

DECISION AND ORDER


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 improperly closed Claimant's FAP benefits effective August 1, 2014.

Accordingly, the Department's FAP 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 as of August 1, 2014;
2. Begin recalculating the FAP budget for August 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from August 1, 2014, ongoing; and

4. Notify Claimant in writing of its FAP decision in accordance with Department policy.



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

Date Signed: **8/28/2014**

Date Mailed: **8/28/2014**

EJF/cl

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]
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