

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

IN THE MATTER OF:

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

Reg. No.: 14-013355
Issue No.: 3001
Case No.: ██████████
Hearing Date: November 5, 2014
County: WAYNE-DISTRICT 55
(HAMTRAMCK)

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 November 5, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's friend/interpreter, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Assistant Payment Worker.

ISSUES

Did the Department properly deny Claimant's Food Assistance Program (FAP) application for September 2014?

Did the Department properly determine each of the FAP group member's citizenship/alien status in order to determine if they are eligible for FAP benefits?

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 or around August 20, 2014, Claimant applied for FAP benefits. See Exhibit 1, p. 16.
2. In August 2014, Claimant received \$385 (prorated) in FAP benefits for a group size of seven. See Exhibit 1, p. 16.
3. In September 2014, Claimant received \$995 in FAP benefits for a group size of seven. See Exhibit 1, p. 16.

4. On September 4, 2014, Claimant re-applied for FAP benefits. See Exhibit 1, p. 1.
5. On September 19, 2014, the Department sent Claimant a Notice of Case Action notifying him that he was denied FAP benefits for September 2014 because he already received FAP benefits in another case. See Exhibit 1, pp. 5-8 and 16.
6. On September 19, 2014, the Notice of Case Action also notified Claimant that he was approved for FAP benefits effective October 1, 2014, ongoing, in the amount of \$649. See Exhibit 1, pp. 5-8. The Notice of Case Action indicated that only four of the group members were eligible for FAP benefits and the Department found three of the group members ineligible based on alien status. See Exhibit 1, p. 6.
7. On September 30, 2014, Claimant filed a hearing request, protesting his FAP allotment. See Exhibit 1, pp. 2-4.

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.

September 2014 FAP Allotment

On or around August 20, 2014, Claimant applied for FAP benefits. See Exhibit 1, p. 16. In August 2014, Claimant received \$385 (prorated) in FAP benefits for a group size of seven. See Exhibit 1, p. 16. In September 2014, Claimant received \$995 in FAP benefits for a group size of seven. See Exhibit 1, p. 16. Then, Claimant and/or his interpreter appeared to testify that Claimant did not receive a response to the initial application dated August 20, 2014. Thus, on September 4, 2014, Claimant re-applied for FAP benefits. See Exhibit 1, p. 1. Claimant and/or his interpreter indicated that Claimant eventually received a response to the first application.

In response to the second application, on September 19, 2014, the Department sent Claimant a Notice of Case Action notifying him that he was denied FAP benefits for September 2014 because he already received FAP benefits in another case. See Exhibit 1, pp. 5-8 and 16. The Department testified that Claimant had two different case numbers. The Department also presented Claimant's Eligibility Summary, which

confirmed that he received FAP benefits under a different case number for September 2014. See Exhibit 1, p. 16.

Based on the foregoing information and evidence, the Department properly denied Claimant's FAP application for September 2014. The evidence presented that Claimant already received FAP benefits for September 2014 under a different case number. See Exhibit 1, p. 16. A person cannot be a member of more than one FAP Certified Group (CG) in any month. BEM 222 (July 2013), p. 3. As such, the Department properly denied Claimant's FAP application for September 2014. See BEM 222, p. 3 and Exhibit 1, p. 16.

October 2014 FAP Allotment

On September 19, 2014, the Department sent Claimant a Notice of Case Action notifying him that he was approved for FAP benefits effective October 1, 2014, ongoing, in the amount of \$649. See Exhibit 1, pp. 5-8. The Notice of Case Action indicated that only four of the group members were eligible for FAP benefits and the Department found three of the group members ineligible based on their alien status. See Exhibit 1, p. 6. On September 30, 2014, Claimant filed a hearing request, protesting his FAP allotment. See Exhibit 1, pp. 2-4. Claimant and/or his interpreter argued that Claimant disputed his decrease in FAP benefits and sought to have the amount increased as reflected in the \$995 benefits received in September 2014.

It should be noted that the Department believed Claimant received FAP benefits for a group size of seven in September 2014 because his benefits were expedited. See BAM 117 (July 2014), pp. 1-7. Nevertheless, this Administrative Law Judge (ALJ) will determine if the Department properly determined that only four of the group members can receive FAP assistance effective October 1, 2014.

The Department determines the alien status of each non-citizen requesting benefits at application, member addition, redetermination and when a change is reported. BEM 225 (July 2014), p. 1. For all programs, persons listed under the program designations in Acceptable Status meet the requirement of citizenship/alien status. BEM 225, p. 3. Eligibility may depend on whether or not the person meets the definition of Qualified Alien. BEM 225, p. 3. Qualified alien means an alien who lawfully admitted for permanent residence under the Immigration and Nationality Act (INA). BEM 225, p. 3. An additional list of qualified aliens is listed in BEM 225. See BEM 225, pp. 3-4. For all programs, a holder of one of the following immigration statuses can receive all program benefits:

- Permanent resident alien with class code RE, AS, SI or SQ on the I-551 (former refugee or Ashlee)....

BEM 225, pp. 5-7 (please note, see BEM 225 for full list of immigration statuses).

Additionally, for FAP benefits, a person must be a U.S. citizen or have an acceptable alien status for the designated programs. BEM 225, p. 1. Regarding acceptable status, FAP benefits can be received as follows:

- A qualified alien who was lawfully residing in the U.S. on August 22, 1996, and was 65 years of age or older on August 22, 1996.
- A person who is lawfully residing in the U.S. and was a member of a Hmong or Highland Laotian tribe . . .
- A person lawfully residing in the U.S. and disabled now.
- A person who has lived in the U.S. as a qualified alien for at least five years since their *date of entry*.
- A qualified alien who is under 18 years of age can receive FAP benefits.

BEM 225, pp. 10-11 (emphasis added).


The evidence presented that all members of Claimant's household entered the U.S. on May 26, 2014. See Exhibit 1, pp. 9 and 13. Moreover, all members of Claimant's household met the requirements of a qualified alien because they all were admitted as permanent residents. However, the evidence presented that only four of the group members can receive FAP benefits because they are under 18 years of age. BEM 225, pp. 10-11 and see Exhibit 1, p. 9. The evidence presented that Claimant and the two additional household members (total of three) did not have acceptable status in order to qualify for FAP benefits (i.e., the three group members have not lived in the U.S. as a U.S. as a qualified alien for at least five years since their date of entry). See BEM 225, pp. 1-11.

Based on the foregoing information and evidence, the Department properly determined that only four of the group members can receive FAP benefits because they are qualified aliens who are under 18 years of age. BEM 225, pp. 10-11 and see Exhibit 1, p. 9. However, the evidence presented that Claimant and the two additional household members (total of three) do not qualify for FAP benefits due to their alien statuses. See BEM 225, pp. 1-11.

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 acted in accordance with Department policy when it (i) properly denied Claimant's FAP application for September 2014; and (ii) properly determined that only four of the group members can receive FAP benefits effective October 1, 2014 because they were qualified aliens who are under 18 years of age.

Accordingly, the Department's decision FAP is AFFIRMED.



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

Date Signed: **11/7/2014**

Date Mailed: **11/7/2014**

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]
[REDACTED]
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