

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-013629
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: November 13, 2014
County: Eaton

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly determine the Claimant's monthly allotment of Food Assistance Program (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 July 22, 2014, the Claimant applied for Food Assistance Program (FAP) benefits.
2. On August 4, 2014, the Claimant applied for State Emergency Relief (SER) benefits and reported that she is attending college half-time.
3. On August 8, 2014, the Department notified the Claimant that it would reduce her Food Assistance Program (FAP) benefit group size to 1 because she is as an ineligible student.
4. On October 7, 2014, the Department restored the Claimant's Food Assistance Program (FAP) benefit group size to two, and supplemented her benefits for August and September of 2014.
5. On October 9, 2014, the Department received the Claimant's request for a hearing, protesting the amount of her monthly Food Assistance Program (FAP) allotment for July of 2014.

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).

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

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.

A person enrolled in a post-secondary education program may be in student status, as defined in this item. A person in student status must meet certain criteria in order to be eligible for assistance. Department of Human Services Bridges Eligibility Manual (BEM) 245 (July 1, 2014), p 1.

A person is in student status if she 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. BEM 245, p 3.

On July 22, 2014, the Claimant applied for Food Assistance Program (FAP) benefits. On August 4, 2014, the Claimant applied for State Emergency Relief (SER) benefits and reported on her application that she is attending college half-time. On August 8, 2014, the Department notified the Claimant that it would reduce her Food Assistance Program (FAP) benefit group size to 1 because she is an ineligible student. The Claimant had been a Food Assistance Program (FAP) recipient as a group of two and the Department had previously determined that the student status policy did not apply to her because she was attending college less than half-time.

On October 7, 2014, the Department restored the Claimant's Food Assistance Program (FAP) benefit group size to two and supplemented her benefits for August and September of 2014.


The Claimant's Food Assistance Program (FAP) benefits for July were prorated based on her July 22, 2014, application date. The closure of Food Assistance Program (FAP) benefits before July 22, 2014, is not relevant to his hearing because it occurred more than 90 days before the Claimant requested a hearing. The evidence indicates that the Department did not reduce the Claimant's group size until August 8, 2014, and that July benefits were issued as a group of two, although at a lesser amount due to the application and eligibility date of July 22, 2014.

This Administrative Law Judge finds that the evidence does not support a finding that the Claimant was attending college half-time or more at any time relevant to this hearing and statements on the August 4, 2014, SER application are unverified.

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 determined the Claimant's Food Assistance Program (FAP) benefits as of her July 22, 2014, application date.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **11/17/2014**

Date Mailed: **11/17/2014**

KS/las

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:

