

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

IN THE MATTER OF:

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

Reg. No.: 14-002797
Issue No.: 3001
Case No.: ██████████
Hearing Date: June 16, 2014
County: OAKLAND-DISTRICT 3

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 June 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's daughter/witness, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUE

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

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.
2. From April 9, 2014, to June 11, 2014, Claimant was located in a Long Term Care (LTC) facility.
3. On April 29, 2014, the Department received verification that Claimant was located in a nursing home. See Exhibit 1, p. 5.
4. On May 5, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective June 1, 2014, ongoing, because she was not eligible due to institutional status. See Exhibit 1, pp. 3-4.

5. On May 15, 2014, Claimant and/or Claimant's daughter filed a hearing request, to dispute the FAP case closure. 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.

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. It should be noted that based on the testimony and evidence presented, the facility in question was not authorized by FNS to accept Food Assistance nor was it an eligible group living facility. See BEM 265, p. 2.

In this case, Claimant was an ongoing recipient of FAP benefits. From April 9, 2014, to June 11, 2014, the Department testified that Claimant was located in a LTC facility. Claimant's daughter did not dispute the time period she was located in the facility, however, testified that it was called a skilled nursing facility to assist her mother in the rehabilitation. Claimant's daughter testified that there was no intention to keep her there and that she was not admitted into a nursing home. Claimant's daughter testified that her mother suffered a medical injury and was located in the hospital from April 5, 2014. Then, Claimant's daughter testified that her mother was subsequently transferred to the facility to assist in the rehabilitation on April 9, 2014. On April 8, 2014, Claimant testified that she notified the Department via a change report that her mother was located in the hospital and also indicated on the change report that it was unaware for the time frame at the hospital and/or facility.

Additionally, on April 29, 2014, the Department received verification that Claimant was located in a nursing home. See Exhibit 1, p. 5. However, the Department was unsure

how it determined the start date at the nursing home because the verification does not indicate when the Claimant arrived there. See Exhibit 1, p. 5. On May 5, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective June 1, 2014, ongoing, because of the institutional status. See Exhibit 1, pp. 3-4. Also, the daughter agreed that the Claimant should not have received FAP benefits for the time period of April 9, 2014, to June 11, 2014; however, the FAP benefits should have been reinstated upon her return home. Claimant testified that she notified the Department multiple times in May 2014, without any success. Finally, on June 6, 2014, Claimant's daughter testified she notified the Department her mother would return home.

A person is a resident of an institution when the institution provides the majority of his meals as part of its normal services. BEM 212 (February 2014), p. 8. Residents of institutions are not eligible for FAP unless one of the following is true:

- The facility is authorized by the Food and Consumer Service to accept FAP benefits.
- The facility is an eligible group living facility.
- The facility is a medical hospital and there is a plan for the person's return home.

BEM 212, p. 8.

A person who is temporarily absent from the group is considered living with the group. BEM 212, p. 3. A person's absence is temporary if all of the following are true:

- The person's location is known.
- The person lived with the group before an absence (newborns are considered to have lived with the group).
- There is a definite plan for return.
- The absence has lasted or is expected to last 30 days or less.

Exception: The absence may last longer than 30 days if the absent person is in a hospital and there is a plan for him to return to the home.

BEM 212, p. 3.

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


First, the daughter acknowledged that her mother (Claimant) should not have been eligible for FAP benefits during the time period because she was located in the facility. Therefore, the Department acted in accordance with Department policy when it closed the FAP benefits because Claimant was not eligible due to being in institutional status. Claimant can reapply for FAP benefits.

Second, the evidence presented that the Claimant was a resident of the institution because it provided a majority of her meals as part of its normal service when Claimant was located there from April 9, 2014, to June 11, 2014. See BEM 212, p. 8. Moreover, the facility in question was not authorized by FNS to accept Food Assistance nor was it an eligible group living facility. See BEM 265, p. 2. Finally, Claimant's absence was more than 30 days and it was not located in a hospital. Thus, Claimant did not fall under the category of temporary absence. See BEM 212, pp. 3-8. Because Claimant was a resident of an institution, she was not eligible for FAP benefits and the Department properly closed the FAP case effective June 1, 2014, in accordance with Department policy. See BEM 212, pp. 3-8 and BEM 265, pp. 1-2.

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 act in accordance with Department policy when it properly closed Claimant's FAP benefits effective June 1, 2014.

Accordingly, the Department's FAP decision is AFFIRMED.


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

Date Signed: **6/23/2014**

Date Mailed: **6/23/2014**

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]
[REDACTED]
[REDACTED]
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[REDACTED]
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