

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

IN THE MATTER OF:

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

Reg. No.: 14-017672
Issue No.: 3001
Case No.: ██████████
Hearing Date: January 12, 2015
County: Wayne-District 19

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 January 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, manager of the facility where Claimant resided. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's November 10, 2014 application for 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 November 10, 2014, Claimant applied for FAP benefits.
2. In his application, Claimant indicated that he was disabled and living in an adult foster care (AFC) facility.
3. On November 18, 2014, a Department worker interviewed Claimant who informed the worker that he was not disabled or blind. The worker contacted the manager of the group home in which Claimant resided who informed the worker that the home was licensed.

4. On November 18, 2014, the Department sent Claimant a Notice of Case Action denying the application.
5. On November 24, 2014, Claimant filed a request for hearing disputing the Department's actions.

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.

In the November 18, 2014 Notice of Case Action, the Department denied Claimant's FAP application on the basis that he was not a disabled resident living in an AFC facility. A resident of an AFC home is eligible for FAP if (i) the AFC home is an eligible facility and (ii) the client is disabled or veteran as described in the BEM 550 senior/disabled/veteran (SDV) policy. BEM 617 (July 2013), p. 1; BEM 615 (July 2014), p. 1; BEM 212 (July 2014), p. 8. An AFC is an eligible group living facility if it is licensed by the Department Bureau of Children and Adult Licensing (BCAL) to offer domiciliary and/or personal care. BEM 615, p. 1. Under BEM 550, a veteran must be disabled to qualify for SDV status.

In this case, in his November 10, 2014, FAP application, Claimant indicated that he was residing in an AFC home and that he was disabled or blind. While he continued to indicate in his phone interview that he was in an AFC home, and the manager of the home erroneously advised the Department that the home was licensed, Claimant told the Department worker that he was not disabled. Claimant verified at the hearing that he was not disabled. Based on his own statements, Claimant did not meet the qualifications for disabled or veteran under BEM 550. As such, he was not eligible for FAP benefits as an AFC home resident and the Department acted in accordance with Department policy when it denied Claimant's FAP application on the basis that he was not a qualified FAP recipient as an AFC resident.

In his hearing request, Claimant clarified that he erroneously identified his residence as an AFC facility when it was, in fact, a half-way house. The manager of the home appeared at the hearing and testified that she had erroneously identified the home as a

licensed facility by phone. Because Claimant misidentified his circumstances in his application, he was advised to reapply for FAP benefits.

However, based on the information the Department had at the time it processed Claimant's FAP application, the Administrative Law Judge, finds that the Department acted in accordance with Department policy when it denied Claimant's FAP application.

DECISION AND ORDER

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



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/16/2015**

Date Mailed: **1/16/2015**

ACE / tlf

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 48909-8139

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]