

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-13928
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: December 18, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 December 18, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

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 [REDACTED]/13, Claimant applied for FAP benefits.
2. At the time of application, Claimant was more than a half-time student.
3. At the time of application, Claimant was a member of a four-person member household which included an adult daughter.
4. Claimant's adult daughter's income was \$1177/month.

5. DHS received verification that Claimant had a \$682/month rental obligation.
6. On [REDACTED]/13, DHS determined Claimant's FAP eligibility to be \$25 (effective 10/2013), and \$42 (effective 11/2013), in part, based on a FAP benefit group of three persons, employment income of \$1177 and a rental obligation of \$0/month.
7. On [REDACTED]/13, Claimant requested a hearing to dispute the FAP benefit determination.

CONCLUSIONS OF LAW

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a FAP benefit determination. During the hearing, all relevant FAP budget factors were discussed with Claimant. BEM 556 outlines the proper procedures for calculating FAP benefits. This decision will address the FAP budget factors (see Exhibits 4-5) disputed by Claimant.

Claimant's primary dispute was that DHS excluded her as a FAP group member because she was a student. A person enrolled in a post-secondary education program may be in student status. BEM 245 (7/2013), p. 1. A person in student status must meet certain criteria in order to be eligible for assistance. *Id.*

A person is in student status if he/she is aged 18 through 49 years and enrolled half-time or more in either:

- a vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or
- a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. *Id.*, pp. 2-3.

Claimant conceded that she was at least a half-time student between the ages of 18 and 49. It is found that DHS properly found Claimant to be in student status. It must then be determined whether Claimant meets an exception to student status.

In order for a person in student status to be eligible, they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
 - A JTPA program.

- A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
- Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year (i.e. workstudy).
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
 - Enable the person to attend class and work at least 20 hours per week.
 - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does not live with his or her natural, adoptive or stepparent. *Id.* at 3-4.

The person remains in student status while attending classes regularly. *Id.* at 4. Student status continues during official school vacations and periods of extended illness. *Id.* Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term). *Id.*

It was not disputed that Claimant did not meet any of the exceptions for student status. It is found that DHS properly disqualified Claimant because of her student status. Thus, Claimant's appropriate FAP benefit group size was three persons.

Claimant did not dispute the budgeting of her daughter's employment income; she also could not verify that DHS budgeted a proper amount. DHS presented Claimant's daughter's pay stubs (Exhibits 6-8) for [REDACTED]/13 and [REDACTED]/13. Claimant's daughter's bi-weekly gross income added up to \$1095.17. After applying a 2.15 conversion (see BEM 505) to the average check, the proper amount of income to budget is \$1177, the same as calculated by DHS.

Claimant testified that she timely submitted a verification of her rent to DHS. Claimant's specialist conceded that she remembered receiving verification of Claimant's rental obligation. A budget summary (see Exhibit 2) verified that DHS failed to budget any

housing obligation for Claimant. It is found that DHS erred in budgeting Claimant's rental expense.

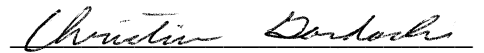
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's daughter's employment income and FAP benefit group size concerning FAP eligibility from an application dated [REDACTED]/13. The actions taken by DHS are **PARTIALLY AFFIRMED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's rental obligation as it affects FAP eligibility. It is ordered that DHS perform the following actions:

- (1) recalculate Claimant's FAP eligibility, effective 10/2013, subject to the finding that Claimant timely verified a rental obligation; and
- (2) initiate a supplement of any FAP benefits improperly not issued.

The actions taken by DHS are **PARTIALLY REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/26/2013

Date Mailed: 12/26/2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

CG/hw

cc:

