

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

IN THE MATTER OF:

██████████
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████████████████████

Reg. No.: 2014-13953
Issue No(s): 3001
Case No.: ██████████
Hearing Date: December 18, 2013
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case on the basis that he was an ineligible student?

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. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed. (Exhibit 1).
3. On November 7, 2013, the Department sent Claimant a Notice of Case Action informing him that effective December 1, 2013, his FAP case would be closed based on his ineligibility as a student. (Exhibit 2).
4. On November 18, 2013, Claimant submitted a hearing request 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 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.

In this case, in connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed. Claimant completed a redetermination submitted it to the Department on October 22, 2013. (Exhibit 1). Claimant indicated on his redetermination that that he a full time student at the University of Michigan. (Exhibit 1, p.2). Based on the information provided by Claimant on his redetermination, the Department determined that Claimant was not an eligible student for FAP purposes and on November 7, 2013, the Department sent Claimant a Notice of Case Action, informing him that his FAP case would be closing effective December 1, 2013, on the basis that Claimant is not an eligible student. (Exhibit 2).

A person who is in student status and does not meet the criteria in BEM 245 is a non-group member and is not eligible to receive FAP benefits. BEM 212 (October 2013), p. 9. A person enrolled in a post-secondary education program may be in student status and eligible for FAP assistance, provided that certain eligibility criteria are met. BEM 245 (July 2013), pp.3-5.

At the hearing, Claimant testified that he is 25 years old and that he is enrolled in a college or university full time. Claimant stated that he is not physically or mentally unfit for employment and that he does not participate in on the job training or in a work study program. Claimant testified that he is currently not employed for 20 hours or more per week. Claimant confirmed that he is not a single parent nor does he provide more than half of the physical care of a group member under the age of six, as he was receiving benefits only for himself with a group size of one. BEM 245, pp.2-5.

Based on the above information and additional testimony provided at the hearing by both Claimant and the Department, Claimant does not meet any of the criteria found in BEM 245; and is therefore not eligible to receive FAP benefits. BEM 245, pp.2-5.

The Administrative Law Judge, based upon 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 closed Claimant's FAP case effective December 1, 2013 and determined that he was ineligible based on his status as a student .

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 18, 2013

Date Mailed: December 18, 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

2014-13953/ZB

ZB/tm

cc:

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