

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

IN THE MATTER OF:

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

Reg No.: 2014-14135
Issue No.: 3001
Case No.: ██████████
Hearing Date: December 18, 2013
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Wednesday, December 18, 2013. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████.

ISSUE

Whether the Department properly reduced Claimant's 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. Claimant was an ongoing FAP recipient.
2. On October 28, 2013, the Department received Claimant's redetermination packet. (Exhibit 1, pp. 1 – 4)
3. Claimant's son attends college full-time and is not employed.

4. On November 1, 2013, the Department sent a Notice of Case Action to Claimant, informing her that her FAP benefits would be reduced as of December 1, 2013, based on the removal from the FAP group of the son attending college.
5. On November 14, 2013, the Department received Claimant's written request for hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

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.

For FAP purposes, a person enrolled in a post-secondary education program may be in student status if certain criteria are met. BEM 245 (July 2013), p. 1. A person is in student status if he is age 18 through 49, enrolled half-time or more in a vocational, trade, business or technical school that normally requires a high school diploma or an equivalency certificate or in a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245, p. 3. In order for a person in student status to be eligible, they must meet certain requirements to include, be receiving cash assistance benefits or be employed at least 20 hours a week (unless physically or mental unfit for employment). BEM 245, pp. 3, 4. A person who is in student status and does not meet the criteria in BEM 245 is a non-group member. BEM 212 (October 2013), p. 9.

In this case, Claimant submitted her redetermination packet in October 2013 which indicated that her son was attended college on a full-time basis and was not working. The Department determined Claimant's ongoing FAP eligibility and, in doing so, the Department removed Claimant's son from the FAP group because he did not meet the student status requirements of BEM 245. As a result, Claimant's FAP benefits were reduced from [REDACTED]. During the hearing, Claimant confirmed that her son is a full-time college student who is not employed. Claimant testified that her son commutes to college and still lives at home. Policy does not provide for exception for full-time college students that commute. In order to be an eligible group member, Claimant's son must meet the criteria of BEM 245. Here, Claimant's son does not meet the criteria. Ultimately, the Department established it acted in accordance with Department policy when it reduced Claimant's FAP benefits as of December 1st. Accordingly, the Department's determination is AFFIRMED.

Claimant also asserted that her FAP benefits should have continued at the higher benefits level pending the outcome of the hearing. In order for the hearing request to be

timely, it had to be received by the Department by November 12th. The Department received the request on November 14th therefore, was not timely. Assuming *arguendo* the request was received timely, the error is found harmless in that the Department properly applied policy to Claimant's FAP case.

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, finds the Department established it acted in accordance with department policy when it reduced Claimant's FAP benefits as of December 1, 2013.

Accordingly, it is ORDERED:

The Department's FAP reduction is AFFIRMED.



Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 20, 2013

Date Mailed: December 20, 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

CMM/tm

cc:

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