

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 2014-14410
Issue No(s): 2000;3001
Case No.: [REDACTED]
Hearing Date: December 19, 2013
County: Wayne (35)

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 19, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) and 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 recipient of MA and FAP benefits.
2. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed. (Exhibit 1)
3. On November 19, 2013, the Department sent Claimant a Notice of Case Action informing him that effective December 1, 2013, his FAP case would be closed on the basis that he is ineligible to receive FAP due to his status as a student. (Exhibit 2)

4. On November 22, 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).

MA

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The hearing was requested to dispute the Department's action taken with respect to Claimant's Medical Assistance (MA) benefits. Shortly after commencement of the hearing, Claimant testified that he understands and is satisfied with the actions taken by the Department and that he no longer had any issues to address with respect to his MA case. Claimant further confirmed that he did not wish to proceed with the hearing concerning his MA case, as he has active and ongoing MA coverage and there has been no lapse in his benefits. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing regarding the MA case is hereby **DISMISSED**.

FAP

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 November 5, 2013. (Exhibit 1). Claimant indicated on his redetermination that that he is a student at the Oakland Community College. (Exhibit 1, p.2). Based on the information provided by Claimant on his redetermination and the class schedule submitted by Claimant with his redetermination, the Department determined that Claimant was not an eligible student for FAP purposes and on November 19, 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 [REDACTED] old and that he is enrolled in a college or university half 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 and confirmed the Department's testimony that his employment ended in September 2013. 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 .

Claimant raised an additional concern regarding the Department's failure to continue to provide him with FAP benefits at the current level pending the outcome of the hearing. Although the Department did not continue to provide Claimant with his FAP benefits pending the outcome of the hearing, as required under BAM 600, this error proved to be harmless, however. Because the Department acted in accordance with Department policy in this case and this decision upholds the Department's action, had Claimant continued to receive FAP benefits pending the outcome of this decision, the Department would be entitled to recoupment of any benefits provided to Claimant that he was not entitled to receive. BAM 600, pp. 23-24; BAM 700 (July 2013), p. 5.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to MA is DISMISSED and the Department's FAP decision is AFFIRMED.



Zainab Baydoun
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

ZB/tm

cc:

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