

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-16451  
Issue No.: 2001; 3001  
Case No.: [REDACTED]  
Hearing Date: January 9, 2014  
County: Wayne (76)

**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 January 9, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUE**

The first issue is whether DHS properly disqualified Claimant from Food Assistance Program (FAP) eligibility due to her student status.

The second issue is whether DHS properly failed to consider Claimant's retroactive Medical Assistance (MA) 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. Claimant was an ongoing FAP benefit recipient.
2. On [REDACTED]/13, Claimant turned 21 years old.
3. On [REDACTED]/13, Claimant applied for MA benefits, including retroactive MA benefits from [REDACTED]/2013.

4. As of [REDACTED]/13, Claimant was more than a half time student.
5. On [REDACTED]/13, DHS denied Claimant's MA benefit application because Claimant failed to meet any Medicaid category.
6. On [REDACTED]/13, DHS terminated Claimant's FAP eligibility, effective 1/2014, due to Claimant's student status.
7. On [REDACTED]/13, Claimant requested a hearing to dispute the FAP termination and MA application denial.

### **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 termination of FAP benefits. It was not disputed that DHS terminated Claimant's eligibility based on Claimant's student status.

A person enrolled in a post-secondary education program may be in student status. BEM 245 (1/2013), 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's application dated 11/26/13 listed that Claimant was less than half-time (see Exhibit 3). Claimant testified that she took 13 college credits at the time she submitted the application to DHS. Claimant's testimony was more credible than her written statement, The 13 credits makes Claimant more than a half-time college student. 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.*

Claimant presented testimony suggesting that she worked more than 20 hours per week as a care provider. Claimant's application failed to list any such employment. Claimant suggested that she might have listed her employment on the back of the last page of the application; the last page was not presented by DHS as an exhibit. Claimant also testified that DHS should have been aware of her employment as she verified it shortly before submitting an application.

Claimant listed her income as \$525.75/month on her hearing request. It was not clear whether this income was gross income or net income. The distinction matters because Claimant potentially meets an exception to student status if her monthly wage is based on 20 hours per week at the minimum wage. Based on the presented evidence, DHS should have clarified whether Claimant did or did not work 20 hours per week. Accordingly, the FAP benefit termination was improper.

It should be noted that Claimant appeared to inappropriately receive FAP benefits prior to the benefit termination. It is known that Claimant is under 22 years old and lives with her parents. Presented testimony suggested that Claimant's parents were not factored in Claimant's FAP eligibility; DHS policy dictates otherwise (see BEM 212). Thus, Claimant may very well be ineligible for FAP benefits even if Claimant is not disqualified from FAP eligibility as a student.

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. 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 also requested a hearing to dispute a denial of MA benefits. It was not disputed that DHS denied Medicaid to Claimant because Claimant did not meet any eligible Medicaid categories.

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 (10/2010), p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* Claimant conceded that she was neither pregnant, disabled, over 65 years old nor disabled.

Claimant turned 21 years old two days before applying for MA benefits. Thus, as of her date of application she failed to meet any of the MA categories. It is found that DHS properly denied Claimant's application for MA benefits due to Claimant not meeting any of the categories.

MA is available to a person who is under age 21 and meets the eligibility factors in this item. BEM 132 (7/2013), p. 1. All eligibility factors must be met in the calendar month being tested. *Id.*

As it happened, Claimant's application noted that she had an unpaid medical expense from 9/2013. DHS allows clients to apply for retroactive MA benefits for up to three months prior to an application date (see BAM 115). For the calendar month of 9/2013, Claimant is potentially eligible for Medicaid as a person who was under 21 years old. Accordingly, it is found that DHS erred in failing to evaluate Claimant's MA benefit eligibility for the month of 9/2013.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA benefits and terminated Claimant's FAP eligibility. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility, effective 1/2014, subject to the finding that DHS failed to factor Claimant's employment as a possible exception to student status as well as Claimant's group composition as a factor;
- (2) determine Claimant's MA benefit eligibility for 9/2013 subject to the finding that Claimant met the eligibility for Group 2- Under 21 Medicaid category; and
- (3) initiate a supplement of any benefits improperly not issued.

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



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

Date Signed: 1/14/2014

Date Mailed: 1/14/2014

**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:

