

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-25983 and
2014-28269
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: March 27, 2014
County: Livingston

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in person hearing was held on March 27, 2014, from Howell, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], General Services Program Manager, [REDACTED], Assistance Payments Worker and [REDACTED], Assistance Payments Manager. This case was consolidated with [REDACTED], Register 2014-28269 as the issues are identical. Claimant appeared as [REDACTED]' authorized hearings representative.

ISSUE

Did the Department properly remove Claimant's daughter from her Food Assistance Program (FAP) case and reduce Claimant's 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 receiving FAP benefits in the amount of \$ [REDACTED] for herself and her [REDACTED], as a Food Assistance Program group of two people.
2. The Social Security Administration canceled Rachael Daniels' children's SSI eligibility.

3. In August 2013, Claimant notified the Department that [REDACTED] would be losing her SSI children's benefit status.
4. On October 15, 2013, the Department sent a notice of case action to Claimant informing her that her [REDACTED] was excluded from the household due to her failure to meet student status requirements, and that her FAP benefits would be reduced from \$ [REDACTED] to \$ [REDACTED] per month.
5. On October 23, 2013, Claimant requested a hearing contesting the reduction in FAP benefits.
6. On December 3, 2013, a hearing was held.
7. On December 4, 2013, Administrative Law Judge Aaron McClintic issued a Decision and Order affirming both the Department's determination to reduce Claimant [REDACTED] FAP benefits and the determination that Claimant's daughter should be excluded from the FAP group due to her failure to meet student status requirements.
8. On January 31, 2014, the Department sent Claimant notice of case action stating that FAP benefits were reduced to one individual due to ineligible student status for Rachael.
9. On February 10, 2014, Claimant filed a request for a hearing, stating that there are two persons in her home and have been since prior to 2009.
10. On March 6, 2014, the Livingston County DHS received a [REDACTED] [REDACTED] indicating that Claimant [REDACTED] is unfit for employment based upon [REDACTED] [REDACTED] [REDACTED] [REDACTED]. (Case Register # 2014-25983, Exhibits #1-2).
11. At the hearing, Claimant [REDACTED] submitted a second [REDACTED] [REDACTED] dated 2/19/14 from Claimant [REDACTED] [REDACTED] stating that she is unfit for employment. (Claimant Exhibits #1-3).
12. Claimant's [REDACTED] and household member, [REDACTED] is and a full-time student at Cleary College.
13. [REDACTED] is not working.
14. [REDACTED] has not been determined to be disabled as an adult by the Social Security Administration or by the Department of Human Services.
15. The medical review team determined that [REDACTED] was not disabled.
16. Requests for hearings on the disability issue have been filed and are currently pending with the Michigan Administrative Hearing System.

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.

Pertinent Department policy states:

A person enrolled in a post-secondary education program may be in student status, as defined in this item. A person in student status must meet certain criteria in order to be eligible for assistance.

A full-time student in post-secondary education is **not** eligible for RCA or RMA. The school determines full-time enrollment and attendance.

FAP Only

A person is in student status if he is:

- Age 18 through 49 and
- Enrolled half-time or more in a:
 - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - Regular curriculum at a college or university that offers degree programs **regardless** of whether a diploma is required.

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.

To qualify under this provision the student must be approved for work study during the school term and anticipate actually working during that time. The exemption:

- Starts the month the school term begins or the month work study is approved, whichever is later.
- Continues until the end of the month in which the school term ends, or when you become aware that the student has refused a work-study assignment.
- Remains between terms or semesters when the break is less than a full month, or the student is still participating in work study during the break.
- 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. BEM, Item 245, pages 1-5

A person must submit verification that he/she has been medically deemed unfit for employment in order to receive FAP if they do not meet student status. Policy dictates that the following verification is needed to establish a deferral from the work requirements for students.

Physically or Mentally Unfit for Employment:

- Award letter or other verification of eligibility for Retirement, Survivors, and Disability Insurance (RSDI) or Supplemental Security Income (SSI) on the basis of disability.
- Award letter or other verification of eligibility for disability benefits issued by government or private sources.
- Statement from an M.D. or D.O.

Statement from a psychologist. BEM Item 245, page 10.

FAP policy dictates:

Parents and their children **under** 22 years of age who live together **must** be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM, Item 212

In the instant case, [REDACTED] provided a Medical Examination Report dated 3/05/14 that is filled out by a [REDACTED] which explicitly states that she is unfit for employment based on medical problems: [REDACTED]. A [REDACTED] [REDACTED] dated 2/19/14 submitted at hearing by [REDACTED] states explicitly that [REDACTED] is physically and mentally unfit for employment. The report is signed by a [REDACTED].

The Department makes their decision in reliance upon a denial for State Disability Assistance, where the Medical Review Team denied that [REDACTED] is disabled. Although [REDACTED] may not be considered disabled for purposes of State Disability Assistance benefit eligibility, she does become eligible for FAP benefits on the mother's FAP case based upon the fact that she provided a statement from two Medical doctors establishing that she is physically and mentally unfit for employment.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did act in accordance with Department policy when it removed Claimant [REDACTED] from her [REDACTED] Food Assistance Program case. Once Claimant provided a statement from a [REDACTED] indicating that she was physically and mentally unfit for employment, the Department must return [REDACTED] to her [REDACTED] FAP case. Claimant [REDACTED]

██████ should be reinstated on her ██████ FAP case as a child who is under age 22, and who has provided appropriate verification that she is physically or mentally unfit for employment. This Administrative Law Judge did check medical records provided for the upcoming disability cases and there were no documents submitted before March 6, 2014 in the files which state that Claimant ██████ was mentally or physically unfit for work.

Claimant ██████ has two outstanding requests for a hearing on cases MAHS Register Numbers 2014-28270 and 2014-8110 contesting denials for Medical Assistance and State Disability Assistance pending with the Michigan Administrative Hearings System (MAHS) which will be scheduled for a later date, if necessary, once the cases return to MAHS from the State Hearings Review Team, which is in the process of conducting a medical review of the cases for purposes of disability determination.

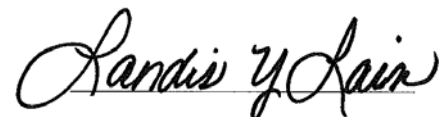
DECISION AND ORDER

Accordingly, the Department's decision on case register #2014-25983 is **AFFIRMED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. If Claimant ██████ is otherwise eligible, return Claimant ██████ to the FAP case and re-determine Claimant Pamela Daniels' Food Assistance Case and pay to Claimant ██████ any FAP benefits to which she is entitled for the month of March 2014 forward in compliance with Department policy on case register #2014-25983.
2. Notify Claimant ██████ in writing of the decision and the reasons for such decision.

The Hearing request on case register number #2014-28269 for ██████ is hereby **DISMISSED** as duplicative with upcoming hearings (case register number #2014-28270 and case register number #2014-8110).



Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/2/14

Date Mailed: 4/3/14

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 Claimant;
- 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

LYL/tb

cc:

