

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

IN THE MATTER OF:

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

Reg. No.: 2014-7603
Issue No(s): 3016
Case No.: ██████████
Hearing Date: December 3, 2013
County: Livingston-00

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 December 3, 2013, from Howell, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Kylie Harper and Brenda Bolek.

ISSUE

Did the Department properly 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. On October 15, 2013, Notice of Case Action was sent to Claimant informing her that her daughter was excluded from the household due to her failure to meet student status requirements, and that her FAP benefits would be reduced from ██████████.
2. On October 23, 2013, Claimant requested hearing contesting the reduction in Food Assistance Program benefits.
3. Claimant's daughter and household member, ██████████, is 20 years and a full time student at Cleary College.
4. ██████████ Social Security benefits were terminated effective August 2013.
5. ██████████ is not working.

6. [REDACTED] was found not disabled by the Medical Review Team.

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.

STUDENT STATUS

RCA and RMA Only

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:
 - Participate in a state or federally-financed work study program during the regular school year. BEM 245
 - Enable the person to attend class and work at least 20 hours per week.

Additionally, Claimant acknowledged that her daughter is 20 years old and enrolled in college full time. Claimant alleged that her daughter is disabled with diagnoses of Asperger's syndrome and ADHD. The Medical Review Team reviewed [REDACTED] medical records and determined that she was not disabled. The Social Security Administration closed [REDACTED]' SSI case because she no longer met the criteria for being disabled. [REDACTED] is not physically, or mentally, unfit for employment. Claimant failed to present sufficient medical evidence that [REDACTED] is physically, or mentally, unfit for employment.

The Department's actions to exclude [REDACTED] from the FAP household due to her failure to meet student status requirements is consistent with Department policy and was proper and correct. BEM 245

Claimant raised an issue with regard to the Department pro rating her rent since her daughter is also in her household, this would not be consistent with Department policy.

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

acted in accordance with Department policy when it excluded household member [REDACTED] due to her failure to meet student status requirements and reduced Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/04/2013

Date Mailed: 12/05/2013

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

ATM/pw

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]