

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

**IN THE MATTER OF:**



MAHS Reg. No.: 15-018245  
Issue No.: 3001  
Agency Case No.: [REDACTED]  
Hearing Date: November 19, 2015  
County: Wayne (57) Conner

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**HEARING DECISION**

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 19, 2015, from Detroit, Michigan. Petitioner represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist, and Alice Gilmer, Family Independence Manager.

**ISSUE**

Did the Department properly deny Petitioner's application for 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. On [REDACTED], Petitioner applied for FAP benefits (Exhibit A).
2. Petitioner is a full-time graduate student at the [REDACTED]).
3. Petitioner works at [REDACTED] as a teaching assistant 20 hours per week and receives as compensation a 50 percent reduction in his tuition, a benefit which was valued at \$25,902 annually at the time of application (Exhibit A, p. 9).
4. On [REDACTED], the Department sent Petitioner a Notice of Case Action denying the application on the basis that he was an ineligible student (Exhibit C).
5. On [REDACTED], Petitioner filed a request for hearing disputing the Department's actions.

**CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Department denied Petitioner's FAP application because it concluded that he was an ineligible student. Full-time college students between ages 18 and 49 are not eligible for FAP benefits unless they meet one of the eligibility criteria outlined in policy, which includes participating in a work-study program; being employed for at least 20 hours weekly and paid for such employment; having self-employment for at least 20 hours weekly and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours; being mentally or physically unfit to work; or caring for a minor child. BEM 245 (July 2014), pp. 3-4.

In this case, Petitioner indicated in his application that he was a full-time student at [REDACTED] was employed by the university as a teaching assistant, and received as compensation for his employment a 50 percent reduction in his [REDACTED] tuition each semester (Exhibit A, p. 9). The Department acknowledged that the employer verified Petitioner's employment and payment through a reduction in tuition costs (Exhibit B). However, the Department concluded that because Petitioner was not being paid wages for his employment and his employment was not work-study, he was not an eligible student for FAP purposes. Petitioner does not dispute that his teaching assistant position is not work study but argues that he has eligible student status for FAP purposes based on his 20-hour weekly employment.

BEM 245 clearly provides that for a student to be eligible for FAP based on employment, the student must be employed for at least 20 hours per week "and paid for such employment." BEM 245, p. 4. The evidence shows that Petitioner worked as a teaching assistant 20 hours weekly. The issue presented in this case is whether he was paid for such employment.

BEM 500 (July 2015), p. 3 defines income as a benefit or payment received by an individual which is measured in money. In this case, Petitioner is being compensated for his 20-hour weekly teaching assistant duties with a 50 percent tuition reduction. The tuition reduction Petitioner receives is a benefit which can be measured in money, which, in this case, is \$25,902, or one-half of Petitioner's annual tuition. As such, it is income. Because the tuition reduction Petitioner receives from [REDACTED] is income, it follows under Department policy that he is paid for his employment as a teaching assistant for [REDACTED]

The Department countered that the tuition reduction is not countable income and, consequently, renders Petitioner an ineligible student. The Department relies on BEM 500, p. 8, which excludes as income any gain or benefit in a form other than money. The tuition reduction in this case is a benefit other than money. This means that the benefit is not countable income. See BEM 500, p. 3. However, BEM 245 does not require that payment to an eligible employed student be *countable* income. This is in contrast to the requirement in BEM 245 for self-employed students that the student be “earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours” which anticipates a monetary payment. In the absence of any policy provision in BEM 245 requiring that payment to an employed student be countable, the Department cannot rely on the fact that the tuition reimbursement is not countable income to support its conclusion that that Petitioner does not meet the criteria for eligible student status based on employment. Because the parties do not dispute that Petitioner works 20 hours weekly and the policy does not require payment for employment in the form of wages, it is found that Petitioner has eligible student status for FAP receipt.

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 not act in accordance with Department policy when it denied Petitioner’s FAP application.

### **DECISION AND ORDER**

Accordingly, the Department’s decision is **REVERSED**.

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. Reregister and reprocess Petitioner’s [REDACTED], FAP application;
2. Issue supplements to Petitioner for FAP benefits he was eligible to receive but did not from [REDACTED], ongoing; and
3. Notify Petitioner in writing of its decision.



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**Alice C. Elkin**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Mailed: **11/25/2015**

ACE/jaf

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

cc:

