

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-005297
Issue No.: 3001
Case No.: ██████████
Hearing Date: May 07, 2015
County: Wayne-District 19 (Inkster)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 7, 2015, from Detroit, Michigan. Claimant was not present for the hearing. Participants on behalf of Claimant included her Authorized Hearing Representative, ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case on the basis that she was ineligible due to her institutional status?

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 February 11, 2014, Claimant submitted an application for FAP benefits and listed ██████████ as her residential address. (Exhibit A)
2. On February 24, 2014, the Department sent Claimant a Notice of Case Action informing her that she was approved for FAP benefits. (Exhibit B)
3. On September 25, 2014, Claimant submitted verification of her shelter to the Department. (Exhibit C)
4. On March 25, 2015, the Department sent Claimant a Notice of Case Action informing her that effective May 1, 2015, her FAP case would be closed on the

basis that the Department determined she was ineligible for FAP due to her institutional status. (Exhibit D)

5. On April 6, 2015, Claimant submitted a hearing request disputing the case closure and identifying [REDACTED] as her hearing representative.

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.

In this case, the Department stated that Claimant's February 11, 2014, FAP application was approved in error. The Department testified that based on a conversation it had with [REDACTED], it determined that the address where Claimant was residing was an unlicensed group living facility in which [REDACTED] received compensation from the residents. The Department stated that via a Bridges address search, it identified five active FAP cases for different individuals all residing at [REDACTED]. The Department testified that once it became aware that the home was unlicensed, it sent Claimant a March 25, 2015, Notice of Case Action closing her FAP case effective May 1, 2015, because she was "not eligible because of institutional status." (Exhibit D).

An institution is defined as an establishment that furnishes food, shelter and some treatment or services to more than three people unrelated to the proprietor. BEM 265 (October 2014), p. 1. A person is a resident of an institution when the institution provides its residents a majority of their meals as part of its normal services. Residents of institutions are not eligible for FAP and can only qualify for FAP if the facility is either (i) authorized by FNS to accept FAP benefits or (ii) an eligible group living facility as defined in BEM 615. BEM 265, p. 2; BEM 212 (July 2014), p. 8. The Department requires that most eligible group living facilities be licensed. See BEM 615 (July 2014).

Although the Notice of Case Action indicated that Claimant was ineligible for FAP based on her institutional status, at the hearing, the Department testified that it considered Claimant's residence to be a commercial boarding house type of group living facility. A commercial boarding house is not listed as a type group living facility under BEM 615,

however. According to BEM 212, a commercial boarding house is an establishment which provides room and board for compensation and may or may not be licensed. Persons residing in a commercial boarding house are not eligible for FAP. BEM 212, p. 7.

In making the determination that Claimant was ineligible for FAP, the Department testified that it relied on a document that April Walton submitted on behalf of Claimant on September 25, 2014, after verification of shelter was requested from Claimant. (Exhibit C). A review of the document presented shows that it was written on letterhead for Bridges to Recovery, and that it references an amount of \$900 which is the monthly cost of care. According to the document, the cost of care amount includes daily meal preparations for the consumer, weekly laundry services for the consumer, daily administration of medications, transportations to medical appointments, assistance with daily life skills, assistance with personal hygiene, dressing and care, and assistance with any community activities. (Exhibit C).

At the hearing, Claimant's AHR testified that Claimant's prior case worker had requested that she submit proof of Claimant's \$900 monthly rental obligation. Claimant's AHR stated that in response to the request for shelter verification, she provided the Department with the above referenced document. (Exhibit C). Claimant's AHR testified that she previously owned a licensed adult foster care home called Bridges to Recovery which she operated at the [REDACTED] address where Claimant currently resides, however, the adult foster care home closed in 2011. Claimant's AHR stated that she still uses [REDACTED] as the business address for her other licensed homes which is why she provided the Department with Claimant's shelter verification on the letterhead for [REDACTED]. Claimant's AHR also stated that the home where Claimant lives is not an institution and that Claimant and the other five residents each have their own room and each pay monthly rent.

A review of Claimant's hearing request and authorization to allow [REDACTED] to act on her behalf as hearing representative indicates that Claimant purchases and prepares her own meals; however, based on the information available to the Department and provided by Claimant and [REDACTED] in response to the request for shelter verification, the Department properly determined that Claimant was a resident of an institution and ineligible for FAP benefits, as there was no evidence presented that Claimant's residence was an eligible group living facility or that she did not reside in a commercial boarding house. Claimant's AHR did not provide any evidence to counter the information provided on the shelter verification document other than to say it was submitted on the letterhead of her old business by mistake and that the \$900 is the cost of Claimant's monthly rent. (Exhibit C); BEM 265, pp.1-2; BEM 212 (July 2014), p. 8.

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 closed Claimant's FAP case.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/13/2015**

Date Mailed: **5/13/2015**

ZB / tlf

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:

Relationship Duration	Percentage of Respondents
Less than 1 year	10%
1 to 2 years	15%
3 to 4 years	15%
5 to 6 years	45%
7 to 8 years	55%
9 to 10 years	15%
11 to 12 years	10%
13 to 14 years	5%