

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

IN THE MATTER OF:



MAHS Reg. No.: 15-022993
Issue No.: 3001
Agency Case No.: [REDACTED]
Hearing Date: January 27, 2016
County: TUSCOLA

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 January 27, 2016, from Lansing, Michigan. The Petitioner was represented by himself. The Department was represented by Eligibility Specialist [REDACTED]

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) on January 1, 2016?

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 recipient of Food Assistance Program (FAP) benefits. His eligibility was due for re-determination by December 31, 2015.
2. On November 27, 2015, Claimant submitted his Redetermination (DHS-1010) form. On the form Claimant indicated he was a full time college student.
3. On December 1, 2015, Claimant was sent a Notice of Case Action (DHS-1605) which stated his Food Assistance Program (FAP) would close on January 1, 2016.
4. On December 10, 2015, Claimant submitted a hearing request.

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.

Bridges Eligibility Manual (BEM) 210 Redetermination/Ex Parte Review states that for Food Assistance Program (FAP) benefits, the benefits stop at the end of the benefit period unless a redetermination is complete and a new benefit period is certified. In this case Claimant's certification period ended on December 31, 2015. His redetermination was completed on December 1, 2015. The result of that redetermination was that Claimant was not eligible because he was not an eligible student.

The relevant portions of Bridges Eligibility Manual (BEM) 245 School Attendance and Student Status (10-1-2015) provide:

STUDENT STATUS

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:

Enrolled in an institution of higher education as a result of participation in:

A Job Training Partnership Act (JTPA) program.

A program under section 236 of the Trade Readjustment Act of 1974

Another State or local government employment and training program.

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.

The person remains in student status while attending classes regularly. Student status continues during official school vacations and periods of extended illness. Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term).

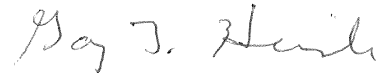
Claimant asserts that he became enrolled in a qualifying program in December 2015. Claimant presented a letter from [REDACTED] an Employment Specialist with Michigan Works. The letter is dated January 2, 2015 and states that "his training has been approved and he will start classes on January 7, 2015. During this hearing Claimant testified that he has been attending college but had Pell Grants that covered all of his expenses so did not apply for the program until he received the December 1, 2015 notice that his Food Assistance Program (FAP) was closing. Claimant does not dispute that the dates on the letter from [REDACTED] are incorrect and should be 2016.

Regardless of the dates Claimant was enrolled in a potentially qualifying program, the Department did not receive notice of such until AFTER December 31, 2015. Bam 210 clearly states that for Food Assistance Program (FAP) benefits, the benefits stop at the end of the benefit period unless a redetermination is complete and a new benefit period is certified.

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 Food Assistance Program (FAP) on January 1, 2016.

DECISION AND ORDER

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



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **2/2/2016**

GH/nr

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:

