

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006903
Issue No.: 2000; 3001
Case No.: [REDACTED]
Hearing Date: [REDACTED] 2014
County: WAYNE-DISTRICT (49)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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, a telephone hearing was held on August 14, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included Phyllis Bell, Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective August 1, 2014?

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 FAP benefits.
2. Claimant is between the ages of 18 through 49 and is enrolled half-time or more in a post-secondary education program.
3. Claimant receives a living allowance from [REDACTED] [REDACTED] [REDACTED]. See Exhibit A, p. 2.
4. On [REDACTED], 2014, Claimant submitted a completed redetermination and had a scheduled phone interview on [REDACTED], 2014. See Exhibit 1, pp. 8-13.

5. On [REDACTED], 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits would close effective [REDACTED], 2014, ongoing, due to him not being an eligible student.
6. On [REDACTED], 2014, Claimant filed a hearing request, protesting his Medical Assistance (MA) benefits closure and FAP case closure. See Exhibit 1, pp. 2-3.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

As a preliminary matter, on [REDACTED], 2014, Claimant filed a hearing request, protesting his MA benefits. See Exhibit 1, p. 3. Shortly after commencement of the hearing, Claimant was no longer disputing his MA benefits. As such, Claimant's MA hearing request is DISMISSED.

In this case, on [REDACTED], 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits would close effective [REDACTED], 2014, ongoing, due to him not being an eligible student.

For FAP cases, a person enrolled in a post-secondary education program may be in student status. BEM 245 (July 2014), p. 1. A person in student status must meet certain criteria in order to be eligible for assistance. BEM 245, p. 1.

For FAP cases, 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.

BEM 245, p. 3.

In order for a person in student status to be eligible, they must meet one of the criteria's listed in BEM 245. BEM 245, pp. 3-5. One of those criteria's includes being employed for at least 20 hours per week and paid for such employment. BEM 245, pp. 3-4.

In this case, it was not disputed that Claimant is between the ages of 18 through 49 and is enrolled half-time or more in a post-secondary education program. The issue is whether the Claimant meets the criteria of being employed for at least 20 hours per week and paid for such employment.

On [REDACTED], 2014, Claimant submitted a completed redetermination and had a scheduled phone interview on [REDACTED], 2014. See Exhibit 1, pp. 8-13. On or around [REDACTED], 2014, Claimant testified that he notified the Department he voluntaries for [REDACTED]. Additionally, Claimant testified that he began with [REDACTED] in [REDACTED] 2013 and began receiving wages in [REDACTED] 2013, ongoing. Claimant testified that he works approximately 35 to 40 hours a week and receives a stipend of \$512 bi-weekly (\$12,100 yearly). Claimant testified that he did not notify the Department until his telephone interview of his voluntary work for [REDACTED]. Moreover, Claimant testified that he did not indicate [REDACTED] in his redetermination because he did not know if it qualified as earned income.

Additionally, Claimant testified that he provided copies of his pay stubs from [REDACTED] at his pre-hearing conference dated [REDACTED], 2014. See Exhibit A, p. 1. Moreover, Claimant provided two letters from the university at the hearing dated [REDACTED], 2014 and [REDACTED], 2014. See Exhibit A, pp. 2-3. The university letter dated [REDACTED], 2014, confirmed that Claimant is serving a one-year, full-time term of service in the [REDACTED]. See Exhibit A, p. 2. Moreover, the letter indicated he began [REDACTED], 2013 and receives a living allowance stipend totaling \$[REDACTED] for the year, paid to him as an outside vendor to the university, in bi-monthly installments. See Exhibit A, p. 2. The university letter dated [REDACTED], 2014, confirmed that Claimant works 35-40 hours per week. See Exhibit A, p. 3.

In BEM 501, Income from Employment, [REDACTED] appears in this policy. See BEM 501, p. 3. BEM 501 states that [REDACTED], a national community service program, encompasses [REDACTED] State, [REDACTED]* [REDACTED] and [REDACTED] NCCC. BEM

501 (July 2014), p. 3. Participants in these programs may receive any or all of the following: living allowance, child care allowance, health insurance, services to individuals with disabilities, and national service education award. BEM 501, p. 3. The Department excludes all allowances and benefits as income and as assets for multiple benefit programs, including FAP benefits. See BEM 501, p. 3.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective [REDACTED], 2014. First, Claimant credibly testified that he notified the Department on or around [REDACTED], 2014 (telephone interview), that he was participating in [REDACTED]. Thus, the Department was aware of Claimant's participation in the program before the notice of closure letter was generated. See BAM 105 (April 2014), pp. 8-10.

Second, as stated previously, it was not disputed that Claimant is between the ages of 18 through 49 and is enrolled half-time or more in a post-secondary education program.

Moreover, in order for a person in student status to be eligible, they must meet one of the criteria's listed in BEM 245, which includes being employed for at least 20 hours per week and paid for such employment. BEM 245, pp. 3-4. Claimant's participation in [REDACTED] meets this requirement. BEM 501 lists [REDACTED] in its income from employment policy. BEM 501, p. 3. As such, it is reasonable to conclude that Claimant's participation in [REDACTED] meets the employment requirements because BEM 501 identifies [REDACTED] as employment. See BEM 501, p. 3.

Additionally, Claimant provided credible evidence at the hearing that he receives a living allowance from the program and that he works 35-40 hours a week. See Exhibit A, pp. 2-3. The evidence presented that Claimant is employed for at least 20 hours per week and paid for such employment. BEM 245, pp. 3-4. Therefore, Claimant has met the requirements to be in student status in order to be eligible for FAP assistance. BEM 245, pp. 1-4. The Department will reinstate Claimant's FAP benefits effective August 1, 2014, ongoing, in accordance with Department policy.

DECISION AND ORDER


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 improperly closed Claimant's FAP benefits effective August 1, 2014.

Accordingly, the Department's FAP 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. Reinstate Claimant's FAP case as of [REDACTED], 2014;
2. Begin recalculating the FAP budget for [REDACTED], 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from [REDACTED], 2014, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's MA hearing request (dated [REDACTED], 2014) is **DISMISSED**.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/19/2014**

Date Mailed: **8/19/2014**

EJF/cl

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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 48909-07322

cc: [REDACTED]
Demitra Owens
Wayne-District 49 (Grand River/War)
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