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

IN THE MATTER OF:



Reg. No.: 14-006903 Issue No.: 2000; 3001 Case No.:

Hearing Date: 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, Participants on behalf of the Department of Human Services (Department or DHS) included Phyllis Bell, Family Independence Specialist.

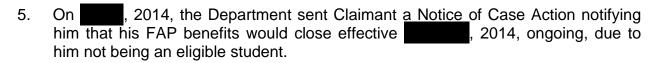
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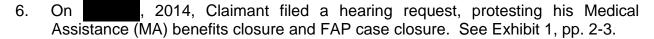
Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective August 1, 2014?

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 Exhibit A, p. 2.
- 4. On scheduled phone interview on 2014, See Exhibit 1, pp. 8-13.





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).

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 ______, 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 _____, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits would close effective 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:
 - o Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - o 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.

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 2014. First, Claimant credibly testified that he notified the Department on or around participating in 2014 (telephone interview), that he was participating in 2014. 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 meets this requirement. BEM 501 lists in its income from employment policy. BEM 501, p. 3. As such, it is reasonable to conclude that Claimant's participation in meets the employment requirements because BEM 501 identifies 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 , 2014;
- 2. Begin recalculating the FAP budget for accordance with Department policy;
- 3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from 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 DISMISSED.

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:

Demitra Owens
Wayne-District 49 (Grand River/War)
BSC4-Hearing Decisions
M. Best
EQADHShearings
M. Holden

K. Mardyla-Goddard