

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-19113
Issue No: 3029
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 19, 2009
Presque Isle County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on May 19, 2009. Claimant personally appeared and testified along with her husband.

ISSUE

Did the department correctly determine that claimant's husband was not eligible to receive Food Assistance Program (FAP) benefits due to a disqualification caused by his alleged job quit?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for FAP benefits on March 5, 2009, for herself and her husband.
2. Department received a completed Verification of Employment form on March 19, 2009, stating that claimant's husband quit his job of 35 hours plus per week with [REDACTED] on March 3, 2009 (Department's Exhibits #1 and 2).

3. Department also received documentation regarding the Unemployment Compensation claim filed by claimant's husband. This documentation stated that no UCB eligibility existed as the claimant's husband was fired from [REDACTED] (Department's Exhibit #11).

4. On April 2, 2009, department mailed the claimant an Application Eligibility Notice telling her that her husband is disqualified from FAP because he quit his job (Department's Exhibit #3). Claimant requested a hearing on April 8, 2009.

5. Claimant testified that her household has very little income, and that her husband did not wish to work for [REDACTED] any more because brakes on the truck he was using set on fire. Department's representative was asked to provide further clarification from [REDACTED] to determine if claimant's husband quit the job or was fired.

6. Following the hearing department's representative provided a memo citing the conversation with [REDACTED], owner of [REDACTED]. [REDACTED] stated that claimant's husband "quit his job under dispatch", which means that he had quit when he had a run to go on. Claimant's husband was not going to fire him and in fact had him scheduled for more deliveries, and his quitting forced the owner to scramble to cover these shifts.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Departmental policy states:

DEPARTMENT PHILOSOPHY

DHS requires clients to participate in employment and/or self-sufficiency-related activities and to accept employment as required. There are consequences for a client who refuses to participate in employment and/or self-sufficiency-related activities or refuses to accept employment without good cause.

DEPARTMENT POLICY

The policies in this item are for all Food Assistance Program (FAP) applicants and recipients. Noncompliance with employment requirements for FIP (see PEM 233A) affect FAP if both programs were active on the date of the noncompliance. PEM 233B, p. 1.

FAP REFUSING EMPLOYMENT

Non-deferred adult members of FAP households must follow certain work-related requirements in order to receive Food Assistance Program benefits. PEM 233B, p. 2.

Working

- . Disqualify non-deferred adults who were working when the person:
- . Voluntarily quits a job of 30 hours or more per week without good cause, or
- . Voluntarily reduces hours of employment below 30 hours per week without good cause, or
- . Is fired without good cause from a job for misconduct or absenteeism (i.e., not for incompetence). Misconduct sufficient to warrant firing includes any action by a worker that is harmful to the interest of the employer, and is done intentionally or in disregard of the employer's interest, or is due to gross negligence. It includes but is not limited to drug or alcohol influence at work, physical violence, and theft or willful destruction of property connected with the individual's work.
- . **Note:** If the job quit, reduction in hours or firing occurred **more** than 30 days **prior** to the application date, no penalty applies. PEM 233B, pp. 2-3.

Not Working

Non-deferred adults who are **not** working or are working less than 30 hours per week must:

- . Accept a bona fide offer of employment

Note: A **bona fide offer of** employment means a definite offer paying wages of at least the applicable state minimum wage.

- . Follow through and participate in activities required to receive unemployment benefits (UB) if the client has applied for or is receiving UB.

Note: Determine good cause before implementing a disqualification. PEM 233B, p. 3.

MEMBER DISQUALIFICATION

Disqualification for failure to comply without good cause are the same for FAP applicants, recipients and member adds. Evaluate each client's work requirement before imposing a disqualification. See PEM 230B "DEFERRALS".

- . For the first occurrence, disqualify the person for one month or until compliance, whichever is longer.
- . For a second or subsequent occurrence, disqualify the person for 6 months or until compliance, whichever is longer.
- . Count any previous FIP- or RAP-related FAP penalty as a first or subsequent occurrence. PEM 233B, p. 3.

Claimant's husband quit his job on March 3, 2009, 2 days prior to her application for FAP benefits. As the husband was working more than 30 hours per week and had no good cause to quit the job (as per his employer the job was available to him), department correctly applied FAP disqualification by excluding him from the FAP benefits.

It is noted that department's representative indicated during the hearing that if claimant's husband performs 20 hours of community service for one week, his FAP disqualification will

end. Claimant and her husband stated he is agreeable to doing this, and they were to be given names of community agencies to contact for community service upon conclusion of the hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined that claimant's husband was not eligible for FAP benefits due to a disqualification caused by his job quit.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 26, 2009

Date Mailed: June 11, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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