

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: 2009-19390

Issue No: 3029

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 26, 2009

Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on May 26, 2009.

ISSUE

Was the claimant's FAP application properly denied for a failure to comply with work requirements?

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 Food Assistance Program on 11-24-08.
- (2) Claimant's case was previously closed when claimant failed to return verifications in October, 2008; claimant did not contest the case closure and reapplied for assistance.

(3) Claimant was approved for FAP assistance.

(4) On 2-12-09, a case audit was performed and claimant was sent a DHS-3503, Verification checklist, requesting verification of claimant's employment.

(5) Claimant returned the verification in a timely manner.

(6) Claimant self reported that she had quit a job on 10-30-09; however, claimant's employer verified that she had actually quit the job on 9-30-09.

(7) DHS interviewed the claimant to determine the reason for the job quit.

(8) Claimant told DHS that she had been homeless at the time and did not go in to work because she needed to pick up suitable clothing; her employer told her not to return and considered this quitting work.

(9) The case auditors told claimant's case worker to disqualify claimant for FAP benefits; claimant was subsequently put into negative action on 4-4-09.

(10) On 4-6-09, claimant filed for hearing, alleging that she had not quit, but was fired.

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).

Non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance. Unlike FIP benefits, which are tied to

participation in the WF/JET program, there are no hourly work participation requirements in the Food Assistance Program except for TLFA. In order to receive Food Assistance Program benefits, non-deferred adults who are not working or are working less than 30 hours per week must accept a bona-fide offer of employment and participate in activities required to receive Unemployment Compensation (UC) if the client has applied for or is receiving UC. PEM 233B pp. 1 and 2.

However, non-deferred adults who were working at a job more than 30 hours per week and then quit or are fired without good cause from a job for misconduct or absenteeism (i.e. not for incompetence) less than 30 days prior to the application for food benefits must be disqualified. PEM 233B.

The Department's case auditors reviewed claimant's case and determined that the claimant had quit a job less than 30 days prior to the application and ordered that claimant's initial application should have been denied. The case auditors based this decision solely on claimant's self report that she had left her employment on 10-30-09, and cited PEM 233B.

Strangely, these self-same case auditors also ordered a DHS-38, Employment Verification from claimant's employer, which was returned in a timely manner. This verification, filled out by claimant's employer clearly stated that claimant had quit the job on 9-30-09, almost 60 days prior to the application. It is odd that these auditors chose to rely on claimant's statement, and not the best evidence available, the Employment Verification, in order to cut off claimant's benefits. Had they relied on the best evidence, it would have been apparent that claimant's job quit was well over the time limit established by PEM 233B, and claimant's application approval would have therefore been correct, as her caseworker initially determined.

Furthermore, these particular case auditors apparently failed to read PEM 233B closely enough to determine that in order to be disqualify a claimant for a job quit, the claimant must

first be working at a job more than 30 hours a week. The DHS-38 shows that, not only was claimant's job temporary in the first place, but only gave a few hours per week. Claimant was, in fact, only working 12 hours per week, far below the threshold for PEM 233B to kick in the first place.

No further analysis need be made; no finessing or interpretation of the regulations would allow an application denial in this situation for the reasons the case auditors claimed. The regulations clearly state that a job quit can only be penalized if the quit was within 30 days of the application. The Department's own evidence is incontrovertible proof that the job quit was almost 60 days from the application. Therefore, the decision to retroactively deny claimant's FAP benefits was in error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny claimant's FAP application was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to remove any negative actions, denials and sanctions against the claimant's case resulting from the above matter. All missed FAP benefits are to be restored retroactively to the date of negative action.

/s/ _____
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 9, 2009

Date Mailed: June 9, 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.

RJC/cv

cc:

A large black rectangular redaction box covers the names and contact information of the recipients listed under the 'cc:' field.