

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: 2009-20025

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 3, 2009

Ingham 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 June 3, 2009.

ISSUE

Was the claimant's FIP application properly denied for noncompliance with work-related activities?

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 Family Independence Program benefits on 2-19-09.
- (2) On 3-2-09, claimant began activities at JET.
- (3) On 3-5-09, claimant signed up for a chair massage at the service center on a sign up sheet.

- (4) This service was only available to MWA employees only.
- (5) The sign up sheet made no mention that this service was for employees only.
- (6) The sign up sheet stated, in large letters, that the cost of the massage was \$15 for 15 minutes of time.
- (7) Claimant did not pay the masseuse.
- (8) Claimant was found, and then subsequently offered to pay, but did not have the money on him.
- (9) JET refused the offer of payment, and dismissed claimant from the site.
- (10) Claimant was placed into noncompliance status and his FIP application was denied.
- (11) Claimant filed for hearing on 3-11-09, stating that he was in compliance.

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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced

the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

A DHS-1171, Assistance Application must be completed when eligibility is re-determined. An application is considered incomplete until it contains enough information to determine eligibility. BAM 115.

Furthermore, all Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called “non-compliance”. BEM 233A states that non-compliance includes:

...any action by an employee or other adult group member that is harmful to the interest of the employer...It includes but is not limited to...theft... BEM 233A pg. 3.

Noncompliance by a Work Eligible Individual while the application is pending results in group ineligibility; no sanctions are imposed and the individual can apply again. While a good cause determination must be made for noncompliant individuals in an active FIP case, a good cause determination is not required for applicants who are noncompliant prior to FIP case opening.

The Department alleges that claimant was aware that the massage services were only for JET workers, and took advantage of services he was not eligible for. Claimant and claimant’s witness made allegations of bias, spite and unfair treatment. The Department forcefully rebutted.

The Administrative Law Judge finds most of these allegations completely irrelevant, as they do not pertain to the issue at hand—whether claimant stole a service.

With regard to the sign up sheet, claimant alleged that he was unaware that the massage was for JET employees only, as the sign up sheet says nothing of the sort. This is true, and the Administrative Law Judge finds the claimant credible on this subject.

With regard to the cost of the service, the claimant alleged that he was unaware that there was a cost involved. The Administrative Law Judge does not find this allegation credible.

The sign up sheet states in large letters that the cost of the massage in question was \$15. These letters are plainly visible. While the undersigned is willing to believe that the claimant did not realize that the massage was for employees only, it simply strains credibility that he missed the 14 point bolded font in prominent position on the sign up sheet that explained the cost.

Furthermore, if the claimant had had the money on his person, the undersigned would have been willing to believe that he forgot to pay; however, the fact that he didn't even have the money at that time makes it more likely than not that claimant, as stated by the Department, was only willing to pay once he got caught.

Therefore, the undersigned finds that the Department has met their burden of proof in the current situation, in proving that claimant more likely than not attempted to secure a service without paying for it.

With regard to the claimant's and claimant's witness' allegations that the Department was uncomfortable with claimant, and much of the current allegations stem from some sort of bias against the claimant, the Administrative Law Judge feels that even if the allegations are completely true, they are ultimately irrelevant. The undersigned sees no need to investigate the motives of the Department in pursuing this action; the undersigned is only concerned with whether there has been a violation of the policies. The only issue at hand is whether the claimant was in violation of the

regulations found in BEM 233A and any other issues regarding the Department's alleged motivations have little to no bearing upon this case. The undersigned acknowledges that there appears to be much bad blood between the claimant and the workers involved, for whatever reason. Unfortunately, this has little to do with the central issue.

The only thing under consideration is whether the Department's action was correct, based upon the regulations contained in BEM 233A. While the matter at hand was, frankly, trifling, the Administrative Law Judge finds that the Department did not commit error when it denied claimant's FIP application. This is the only issue that may be addressed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was not in error when it made the decision to deny claimant's FIP application.

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

/s/ _____
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director

Date Signed: June 25, 2009

Date Mailed: June 25, 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 90 days of the filing of the original request.

2009-20025/RJC

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:

