

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.: 2010-11962
Issue No.: 3029
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 15, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 15, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly assessed a FAP disqualification to Claimant for noncompliance with employment 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 was an ongoing FAP recipient.
2. Claimant was found noncompliant with employment activities concerning Family Independence Program (FIP) benefits in 4/2009.

3. As of the time of Claimant's FIP noncompliance, Claimant was deferred from FAP employment activities due to being a caretaker to a child under six years old.
4. Approximately 9/2009, Claimant's child under six years old was removed from her household.
5. As a result of the child being removed, Claimant was assessed a penalty to her FAP benefits which resulted in FAP closure.
6. Claimant submitted a hearing request on 11/20/09 regarding closure of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

BEM 233B indicates when it is appropriate to assess a FAP penalty due to FIP noncompliance. It reads:

Disqualify a FAP group member for noncompliance when all the following exist:

- The client was **active** both FIP and FAP on the date of the FIP noncompliance, **and**
- **The client did not** comply with FIP/RAP employment requirements, **and**
- The client is subject to a penalty on the FIP/RAP program, **and**

- The client is **not** deferred from FAP work requirements (see DEFERRALS in BEM 230B), **and**
- The client did not have good cause for the noncompliance.

Claimant was active FIP and FAP in 4/2009, when she was FIP noncompliant. Claimant was not compliant with FIP and subject to FIP penalty due to noncompliance. As of 11/2009, Claimant is no longer deferred from FAP work requirements. Claimant did not have good cause for the noncompliance.

The reasons for deferral from FAP employment activities are located in BEM 230B. BEM 230B reads, “Clients meeting one of the criteria below are temporarily deferred from employment-related activities.” Clients that are deferred are not subject to FAP disqualification. Being a caretaker for a child under six is a basis for deferral. When Claimant was FIP noncompliant in 4/2009, she was deferred from FAP disqualification for being such a caretaker. In 9/2009, Claimant lost her basis for deferral when the child was removed from her house. DHS properly found that Claimant was not deferred from FAP penalty after losing custody of her child.

Claimant may overcome the FAP disqualification by either becoming compliant with FIP or by meeting one of the reasons for FAP deferral. For example, if Claimant’s child is returned to her home then Claimant would again be temporarily deferred from FAP employment activities. Claimant could also become eligible for FIP by becoming compliant with JET activities or by becoming employed full-time.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly found Claimant disqualified from FAP benefits in 11/2009.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/27/2010

Date Mailed: 4/27/2010

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.

CG/jlg

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