

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant,

Reg No: 2010-17017

Issue No: 3029

Case No: ██████████

Load No: ██████████

Hearing Date:

March 3, 2010

Bay County DHS

ADMINISTRATIVE LAW JUDGE:

Steven M. Brown

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 conducted from ██████████ on March 3, 2010.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance Program (FAP) eligibility?

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 is a FAP recipient.
- (2) On December 4, 2009, the Department was notified by email from Claimant that she was no longer employed as of December 3, 2009. (Exhibit 16)

(3) On January 5, 2010, the Department faxed a DHS-38 to and received a completed DHS-38 from Claimant's previous employer. The DHS-38 states that Claimant was terminated due to a violation of company policy/theft of company property. (Exhibits 5-7)

(4) Claimant told the Department that she was terminated due to a personal conflict between her and her employer which started with a disagreement over forgetting to bring a dish to pass at Thanksgiving dinner.

(5) The Department determined that Claimant was terminated for misconduct without good cause. (Exhibit 17)

(6) On January 5, 2010, the Department mailed Claimant a Notice of Case Action which explained the reduction in Claimant's monthly FAP allotment. (Exhibits 3-4)

(7) On January 13, 2010, the Department received the Claimant's hearing request.

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

Non-deferred adult members of FAP households must follow certain work-related requirements in order to receive food assistance program benefits. The Department should 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.

In the instant case, Department policy requires that the Department make a finding of whether Claimant was fired for misconduct and whether Claimant had good cause. The Department never spoke to the employer to find out what it meant by violation of company policy/theft of company property. Claimant never admitted violation of any company policy or theft, but instead said her termination was the result of a personal conflict.

The Department should have followed up with the employer and then made its determination. I understand that employers may or may not want to cooperate with the Department's investigation, but that does not mean that the Department's determination of misconduct is "just going with what the employer told them" especially in disputed

cases such as this without any evidentiary support being supplied by the employer other than a vague, conclusory statement.

With the above said, based on the testimony and documentation offered at hearing, I do not find that the Department established that it acted in accordance with policy in computing Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in computing Claimant's FAP eligibility.

Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED. The Department shall:

- (1) Reinstatement Claimant's FAP benefits retroactive to the reduction date.
- (2) Issue Claimant supplemental benefits she is entitled to, if any.
- (3) Notify Claimant in writing of the Department's revised determination.
- (4) Claimant retains the right to request a hearing if she would like to contest the Department's revised determination.

/s/
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 10, 2010

Date Mailed: March 10, 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.

SMB/db

cc:

