

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: 2010-39861
Issue No: 3029
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 15, 2010
Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 July 15, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly deny Claimant's June 1, 2010 application for Food Assistance Program (FAP) benefits because she quit a job in August 2009?

FINDINGS OF FACT

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

(1) In August 2009, Claimant was a recipient of Food Assistance Program (FAP) benefits. Claimant quit a job in order to attend school.

(2) In October 2009, Claimant's Food Assistance Program (FAP) case was closed because she quit the job. The disqualification was not FIP or RAP related.

(3) On June 1, 2010, Claimant submitted an application for Food Assistance Program (FAP) benefits.

(4) On June 3, 2010, Claimant was sent notice that her application was denied because she was disqualified due to the previous job quit.

(5) On June 10, 2010, Claimant submitted a request for hearing.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Claimant does not dispute that she quit a job. The validity of Claimant's disqualification in October of 2009 IS NOT an issue in this hearing. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

EMPLOYMENT-RELATED ACTIVITIES: FAP

DEPARTMENT PHILOSOPHY

Department of Human Services (DHS) has a unique opportunity to assist families in becoming strong, viable, participative members of the community. By involving the adult members of the household in employment-related activities, we help restore self-confidence and a sense of self-worth. These are cornerstones to building strong, self-reliant families.

The goal of the Food Assistance Program (FAP) is to ensure sound

nutrition among children and adults. In addition, the goal of our employment-related policies for FAP households is to assist applicants and recipients toward self-sufficiency by providing them with opportunities to pursue employment and/or education and training.

DEPARTMENT POLICY

Use this item to determine work-related activities and deferrals for FAP clients.

WORK REQUIREMENTS

Non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance.

However, unlike cash benefits, which are tied to participation in the Jobs, Education and Training (JET) program, there are **no hourly work participation requirements** for the Food Assistance Program. In order to receive FAP benefits, non-deferred adults must comply with the following work requirements:

Non-deferred adults who are already working may **not** do any of the following:

- Voluntarily quit a job of 30 hours or more per week without good cause.
- Voluntarily reduce hours of employment below 30 hours per week without good cause.
- Be fired from a job for misconduct or absenteeism.

Note: If the job quit, reduction in hours or firing occurred more than 30 days prior to the application date, no penalty applies.

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

- Accept a bona-fide offer of employment.
- Participate in activities required to receive unemployment benefits if the client has applied for or is receiving unemployment benefits.

Note: If a client is an applicant or recipient of unemployment benefits, they must follow through with the unemployment benefits program's procedures and requirements. This work requirement does not apply to a client who is clearly not eligible for unemployment benefits. Do not require a client to apply for unemployment benefits in order to receive FAP.

Disqualify FAP clients for noncompliance if the applicant or recipient is neither deferred (see deferrals in this item), **nor** noncompliant with one of the FAP work requirements listed above.

In order to provide all FAP adults with the opportunity to pursue employment and/or education and training that will lead to self-sufficiency, you may encourage FAP applicants and recipients to pursue employment services such as job search, employment counseling, education and training, etc. (BEM 230B)

FAILURE TO MEET EMPLOYMENT REQUIREMENTS:

FAP

DEPARTMENT PHILOSOPHY

DHS requires participation in employment and/or self-sufficiency-related activities associated with the Family Independence Program (FIP) or Refugee Assistance Program (RAP). Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment. There are consequences for a client who refuses to participate in FIP/RAP employment and/or self-sufficiency-related activities or refuses to accept or maintain employment without good cause.

DEPARTMENT POLICY

The policies in this item apply to all FAP applicants and recipients age 16 and over. Noncompliance without good cause, with employment requirements for FIP/RAP (see BEM 233A) may affect FAP if **both** programs were active on the date of the FIP noncompliance.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations:

- Client is active FIP/ RAP and FAP and becomes noncompliant with a cash program requirement without good cause.
- Client is pending or active FAP only and refuses employment (voluntarily quits a job, is fired or voluntarily reduces hours of employment) without good cause.

At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP.

FAP ONLY

NONCOMPLIANCE

Refusing Employment

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

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.

MEMBER

DISQUALIFICATION

Disqualifications 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 BEM 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 six months or until compliance, whichever is longer.

REESTABLISHING FAP ELIGIBILITY

A noncompliant person must serve a minimum one-month or six-month disqualification period unless one of the criteria for ending a disqualification early exists.

End the disqualification early if the noncompliant person:

- Complies with work assignments for a cash program, **or**
- Obtains comparable employment in salary **or** hours to the job which was lost, **or**
- Meets a deferral reason other than unemployment benefit (UB) application /recipient, (see DEFERRALS in BEM 230B), **or**
- Leaves the group.

When you learn and verify that the person has met any of the criteria above after a disqualification has actually taken effect, restore benefits beginning the month **after** the noncompliant person reports meeting the criteria.

Example: A mandatory FAP recipient reports a job quit on March 28 without good cause. The adverse action to disqualify the noncompliant person takes effect on April 13. The noncompliant person reports getting a comparable job on April 25. Since the disqualification doesn't actually take effect until May 1, and the client has met one of the criteria for ending a disqualification early, she/he should receive FAP benefits for May. If the noncompliant

person did not report a new job until May 1, the FAP benefit could not be restored until the 1st of June.

If the noncompliant person does not meet the criteria above for ending a disqualification early, a five-day, 20-hour compliance test must be completed before eligibility is regained. In addition, the minimum disqualification period must be served.

If the disqualification caused FAP closure, and all eligibility criteria for FAP eligibility are met, open the case effective the **later** of:

- The date the person agreed to comply.
- The day after the disqualification ended.
- The date of application.

Compliance Test

After a one-month or six-month disqualification, the noncompliant person must complete a compliance test to become eligible for FAP, **unless**:

- Working 20 hours or more per week.
- Meets FAP deferral criteria (see DEFERRALS in BEM 230B).

When a disqualified client indicates a willingness to comply, provide an opportunity to test his/her compliance. Arrange for testing within 10 workdays of the contact, **provided** it is no earlier than one month before a minimum disqualification period ends.

The test consists of five days of employment and/or self-sufficiency-related activities totaling 20 hours. A client may elect to do the test with a community service agency. If so, just verify participation.

Local offices have latitude in the design of compliance tests. Examples of activities include:

- Community Service.
- Work Experience.

- Applying for three jobs within 10 days. Use the DHS-402, FAP Compliance Letter and Job Application Log.
- Other employment and/or self-sufficiency-related activities.

If the person completes the test, recalculate the group's FAP benefit amount with him/her included. (BEM 233B)

In this case Claimant was receiving Food Assistance Program (FAP) benefits as a group of one, and applied for benefits again as a group of one. The Department denied Claimant's June 2010 application because she quit a job nine months earlier (August 2009) and her Food Assistance Program (FAP) benefit case was closed in October 2009. BEM 230B, cited above notes that if the job quit, reduction in hours or firing occurred more than 30 days prior to the application date, no penalty applies. BEM 233B, cited above, states that a penalty for noncompliance may only be applied in two situations. First is if the Client is active FIP/RAP and FAP and becomes noncompliant. That situation does not apply to Claimant's June 2010 application. The second is when a Client is pending or active FAP only and refuses employment (voluntarily quits a job, is fired or voluntarily reduces hours of employment) without good cause. That was the case when Claimant quit her job in August and her case was sanctioned in October 2009. It is not the case regarding her June 2010 application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly deny Claimant's June 1, 2010 application for Food Assistance Program (FAP) benefits because she quit a job in August 2009.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

It is further ORDERED that Claimant's June 1, 2010 Food Assistance Program (FAP) application be reinstated and processed in accordance with Department of Human Services policy.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 21, 2010

Date Mailed: July 22, 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.

GFH/alc

cc:

[REDACTED]