

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: 2010-42741
Issue No: 3029
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 5, 2010
Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 held on August 5, 2010. The claimant personally appeared and provided testimony. The record was left open until August 19, 2010 to allow the department to submit evidence of the claimant's first Food Assistance Program (FAP) noncompliance.

ISSUE

Did the department properly sanction the claimant's Food Assistance Program (FAP) case for failure to meet employment requirements in June, 2010?

FINDINGS OF FACT

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

1. The claimant applied for FAP benefits on December 9, 2009.

2. The claimant was fired from her job at Wal-Mart on December 7, 2009.

(Department Exhibit 1 – 3)

3. The claimant filed for Unemployment Compensation Benefits (UCB) on December 9, 2009. (Department Exhibit 4 – 6)

4. On May 20, 2010, an Administrative Law Judge found that the claimant was properly disqualified from receiving UCB benefits due to her firing for theft. (Department Exhibit 7 – 10)

5. On June 30, 2010, the claimant as informed that her FAP case would be closed for noncompliance as she had been fired from a job within 30 days of her application for FAP benefits.

6. On July 3, 2010, the claimant submitted a 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. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy indicates that non-deferred adult members of FAP households must follow certain work-related requirements in order to receive FAP benefits. BEM 233B. Noncompliance with work-related requirements includes being fired from a job for misconduct or absenteeism. BEM 233B.

The claimant disputes her firing from [REDACTED]. The claimant testified that she did not commit any theft and was fired wrongfully. However, the claimant was granted an administrative hearing on the issue and the Administrative Law Judge found that the claimant did commit a theft of company property and disqualified the claimant from receiving UCB benefits. Once the claimant exhausted her appeal of her denial of UCB, she no longer meets any of the deferral criteria, thus, is subject to a FAP disqualification.

Department policy indicates that for the first occurrence of FAP noncompliance, the claimant should be disqualified from the FAP group for one month or until compliance. BEM 233B. For a second or subsequent occurrence, the claimant should be disqualified from the FAP group for six months or until compliance. BEM 233A.

The department reported that this is the claimant's second occurrence of FAP noncompliance. The claimant disputed this information and indicated she believed it was her first instance of noncompliance. The record was left open for the department to submit documentation to show the previous noncompliance. The department did provide several documents showing the claimant was noncompliant with FIP program requirements on January 3, 2006. The claimant was not granted good cause and she was sanctioned from the FAP group beginning March, 2006. Thus, this Administrative Law Judge does find that this is the claimant's second FAP noncompliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined the claimant was noncompliant for a second instance and determined the claimant should be sanctioned from the Food Assistance Program (FAP) case for failure to meet employment requirements in June, 2010.

Accordingly, the department's decision is UPHeld. SO ORDERED.

/s/

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 26, 2010

Date Mailed: August 26, 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.

SLK/om

cc:

