

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: 2010-14856
Issue No: 3029
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 10, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 February 10, 2010. Claimant personally appeared and testified along with her mother [REDACTED]

ISSUE

Did the department correctly deny claimant's Food Assistance Program (FAP) application on December 11, 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. On December 9, 2009 claimant applied for FAP benefits.

2. On December 11, 2009 department denied claimant's FAP application as she had been sanctioned for being fired from a job without good cause on April 11, 2008, and had not obtained another job since then.

3. Claimant requested a hearing on December 16, 2009.

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).

In claimant's case she was a member of her mother's FAP group in April, 2008, when she was fired from a job at a hotel for not changing the sheets in a room. Department found that the firing was due to claimant's fault and sanctioned her by removing her from her mother's FAP case. This was done in accordance with the following departmental policy:

FAP REFUSING EMPLOYMENT

Non-deferred adult members of FAP households must follow certain work-related requirements in order to receive Food Assistance Program benefits. BEM 233B, p. 2.

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. BEM 233B, pp. 2-3.

MEMBER DISQUALIFICATION

Disqualification 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 PEM 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 6 months or until compliance, whichever is longer.
- . Count any previous FIP- or RAP-related FAP penalty as a first or subsequent occurrence. BEM 233B, p. 3.

Claimant testified that she had not found another job since she was fired in April, 2008.

Department has therefore disqualified the claimant from FAP benefits since 2008. However, departmental policy further states:

RE-ESTABLISHING 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 PEM 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.

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. However, the minimum disqualification period must be served.

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

- . The date the person agreed to comply, or
- . The day after the disqualification ended, or
- . The date of application. PEM 233B, pp. 6-7.

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, or
- . Meets FAP deferral criteria (see “DEFERRALS” in PEM 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. ASSIST reassigns the case if appropriate.

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 services
- . 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. PEM 233B, p. 7.

Claimant can have the opportunity to complete the compliance test if she so chooses so that she can possibly qualify for FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly denied claimant's FAP benefits in December, 2009, if the claimant was told about the compliance test and refused to complete it.

Accordingly, department shall:

1. Review claimant's case and determine if the claimant was told about the compliance test.
2. If the claimant was told about the compliance test and refused it, department correctly denied claimant's FAP application.

3. If the claimant was not told about the compliance test, department shall offer the claimant the same. If the claimant agrees to complete such a test, department shall process claimant's December 9, 2009 FAP application to determine her FAP eligibility.

SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 13, 2010

Date Mailed: April 14, 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.

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