

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-26696
Issue Nos.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: April 25, 2011
DHS County: Wayne (82-43)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED]' request for a hearing. After due notice, a telephone hearing was held on April 25, 2011. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS). This case was consolidated for hearing with Michigan Administrative Hearing Service Registration No. 2011-24973 ([REDACTED]).

ISSUE

Whether DHS terminated Claimant's Family Independence Program (FIP) benefits, and reduced her Food Assistance Program (FAP) benefits, in accordance with DHS policy and procedure?

FINDINGS OF FACT

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

1. In about March 2010, DHS awarded FIP and FAP benefits to Claimant.
2. On January 11, 2011, Claimant began working at [REDACTED]).
3. On February 1, 2010, DHS closed Claimant's FIP case.
4. For only four days in February, February 24-28, 2011, DHS provided \$93 FAP benefits to Claimant.

5. On March 3, 2011, Claimant was terminated from [REDACTED].
6. On March 7, 2011, Claimant applied for FIP and FAP benefits with DHS.
7. On March 8, 2011, DHS issued a Notice of Case Action denying Claimant's FAP application but not her FIP application. DHS' stated reason was, "Benefits delayed due to a group member's job refusal, job quit or reduced hours of employment without good cause within 30 days of application."
8. On March 22, 2011, DHS issued a second Notice of Case Action which denied Claimant's FAP application for the same reason stated on the March 8 denial notice.
9. On March 25, 2011, Claimant filed a Request for a Hearing with DHS.
10. On March 28, 2011, Claimant reapplied for FIP and FAP benefits with DHS.
11. From March 28-31, 2011, DHS provided \$67 FAP benefits to Claimant.

CONCLUSIONS OF LAW

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* DHS administers FIP pursuant to MCL 400.10, *et seq.* and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and MACR 400.3001-400.3015. DHS' policies are found in BAM, BEM and RFT. *Id.*

The DHS manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute the legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policy items are, I will examine whether they were followed in this case. I will first consider DHS' closure of FIP benefits on February 1, 2011.

Claimant's FIP benefits were closed February 1, 2011. I can find nothing in the record to establish why DHS closed the case. As DHS took the action without stating its

reasons for doing so, I cannot evaluate whether DHS acted in accordance with policy. Accordingly, I REVERSE the Department's action, and DHS shall reinstate the FIP case as of February 1, 2011, and provide supplemental benefits to Claimant as appropriate.

Continuing with the consideration of Claimant's FIP benefits, I will next consider Claimant's March 28, 2100, application for FIP benefits. I find nothing in the record to show that DHS took action on Claimant's March 28, 2011, FIP application. While the Hearing Summary states that a sanction was imposed, I find nothing in the record to substantiate this statement. I note that although DHS issued two Notices of Case Action regarding Claimant's FAP benefits, DHS issued no notice whatsoever regarding Claimant's FIP benefits. As DHS failed to state how it acted on the FIP application, I REVERSE any action which in effect denies the application, and DHS shall reinstate the application, review Claimant's eligibility, and provide appropriate retroactive FIP benefits to Claimant as of March 28, 2011.

I turn now to the second question in this case, the issue of Claimant's FAP benefits. There are two separate questions to address with regard to Claimant's FAP benefits: the February benefits and the April sanction. First, with regard to the February 24-28 benefits, I find nothing in the record to explain why Claimant did not receive benefits for the entire month of February. Accordingly I REVERSE the Department's denial of FAP benefits to Claimant from February 1-23, and the Department shall reinstate Claimant's February benefits and provide supplemental retroactive benefits in order to restore Claimant to the position to which she is entitled.

Second, with regard to DHS' 30-day sanction imposed on Claimant for April 2011, DHS cites BEM 233A, "Failure to Meet Employment and/or Self-Sufficiency-Related Requirements: FIP," and BEM 233C, "Failure to Meet Employment Requirements: RAP [Refugee Assistance Program] Cash," as authorities for its action. I find that these items are not applicable to FAP, and I turn to BEM 233B, "Failure to Meet Employment Requirements: FAP," for guidance in this case.

BEM 233B specifically states that there is no disqualification penalty when a client is terminated for "incompetence."

FAP ONLY NONCOMPLIANCE

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.)

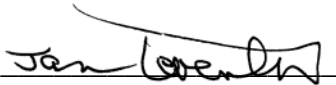
BEM 233B, p. 3.

I read the last sentence of this paragraph to mean that a person who is fired for “incompetence” is *not* disqualified from receiving full benefits and is entitled to receive complete and full FAP benefits. Stated in another fashion, I read this section to mean that the employer’s view of the customer’s quality of work will *not* prevent the customer from receiving full FAP benefits. Accordingly, I find that DHS erred, and DHS shall be REVERSED and the 30-day sanction rescinded, Claimant’s FAP case shall be reinstated and retroactive benefits paid as appropriate for the month of April 2011.

In conclusion, based on the findings of fact and conclusions of law above, I find and decide that DHS erred in this case and DHS is hereby REVERSED. IT IS ORDERED that DHS shall reinstate Claimant’s FIP and FAP benefits effective back to the date of their termination, and provide her with all retroactive FIP and FAP benefit supplements to which she is entitled.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is REVERSED. IT IS ORDERED that DHS shall reinstate Claimant’s FIP and FAP benefits effective back to the date of their termination, and provide her with supplemental retroactive benefits as appropriate, in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 4, 2011

Date Mailed: May 5, 2011

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 90 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

JL/pf

cc:

