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

IN THE MATTER OF:

████████████████

Reg. No.   201132053
Issue No.   3029
Case No.   ██████████
Hearing Date: June 1, 2011
                Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on June 1, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), Willard Anzaldi, Manager, and Steve Caumartin, Michigan Works Agency (MWA) representative, appeared and testified.

ISSUE

Whether DHS properly assessed Claimant with an employment-related disqualification resulting in a reduction of Claimant's Food Assistance Program (FAP) benefit group size.

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 was an ongoing FAP and Family Independence Program (FIP) benefit recipient.

2.   Clamant was an ongoing Jobs, Education and Training (JET) participant.

3.   On an unspecified date, Claimant stopped her attendance with JET.

4.   Claimant stopped her attendance with JET due to employment though failed to report her employment to DHS or JET.

5.   On an unspecified date, DHS found Claimant to be noncompliant with JET participation.

6.   On an unspecified date, DHS terminated Claimant's FIP benefits and reduced Claimant's FAP benefits based on a disqualification associated with JET noncompliance.

7.   The FAP benefit reduction and FIP benefit termination were to be effective 3/2011.

8.   On 4/7/11, Claimant requested a hearing disputing the FIP benefit termination and FAP benefit reduction.

9.   Claimant only currently disputes the FAP benefit reduction and does not wish to proceed with a hearing on the issue of FIP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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). DHS (formerly known as the Family Independence Agency) administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The undersigned will refer to the DHS regulations in effect as of 2/2011, the month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: http://www.mfia.state.mi.us/olmweb/ex/html/.

DHS is to disqualify a FAP group member for noncompliance when all the following exist:
*   The client was active both FIP and FAP on the date of the FIP noncompliance, and
*   The client did not comply with FIP employment requirements, and
*   The client is subject to a penalty on the FIP program, and
*   The client is not deferred from FAP work requirements
*   The client did not have good cause for the noncompliance. BEM 233B at 2.
Of these factors, the only one in dispute was whether Claimant had a basis to be deferred from FAP work requirements.

Clients meeting one of the criteria below are temporarily deferred from employment-related activities:
*   Age: Defer a person who is under age 16 or at least age 60, a 16- or 17-year old who is not the grantee or a grantee age 16 or 17 in special circumstances.

- Care of a Child: Defer one person who personally provides care for a child under age six who is in the FAP group.
- Care of Disabled Household Member: Defer one person who personally provides care for a disabled member of his/her own FAP group.
- Disability: Defer persons incapacitated due to injury, physical illness or mental illness.
- Education: A student enrolled up to half time in any recognized school, training program or institution of higher education meets the employment-related activities requirement. This includes persons attending school for GED or adult high school completion.
- Employment: Persons employed, self-employed or in work study an average of 30 hours or more per week over the benefit period or earning on average the federal minimum wage times 30 hours per week are not required to participate in any further employment-related activities. This includes migrant or seasonal farm workers with an employer or crew chief contract/agreement to begin work within 30 days.
- Pregnancy: Defer pregnant women, beginning the seventh month of pregnancy or earlier if a pregnancy complication is medically documented.
- SSI-FAP Applicant: Defer applicants who apply for both SSI and FAP through the Social Security Administration. The application for SSI and FAP must be made at the same time.
- Substance Abuse Treatment Center Participant: Defer active participants in inpatient or outpatient programs for substance abuse treatment and rehabilitation. This does not include AA or NA group meetings. To verify use a verbal or written statement from the center.
- Unemployment Compensation (UC) Applicant or Recipient: Defer an applicant for or recipient of unemployment benefits. This includes a person whose unemployment benefits application denial is being appealed. BEM 230B at 3-5

The undersigned has no evidence that any of the above reasons for deferral from a FAP disqualification apply to Claimant. Claimant stated that she was employed more than 30 hours up until early 2/2011. However, Claimant's FAP disqualification did not begin until 3/2011. Claimant testified that she has minor children though none were aged six years or under. It is found that Claimant had no basis for deferral from employment-related activities. Accordingly, DHS properly determined Claimant to be noncompliant with FAP employment-related activities.

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. BEM 233B at 7. DHS is to end the disqualification early if the noncompliant person:

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

Again, there is no evidence to support that Claimant met any of the above circumstances which may have ended her FAP employment-related disqualification early. Thus, it is found that DHS had no basis to end Claimant's FAP benefit disqualification early.

It was not disputed that Claimant's FAP benefits were reduced only because of the FAP benefit disqualification. Accordingly, it is found that DHS properly issued FAP benefits to Claimant based on FAP benefit group of one person.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly reduced Claimant's FAP benefits based on a reduced group size due to Claimant's FAP benefit disqualification. The actions taken by DHS are AFFIRMED.

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 06/10/11

Date Mailed: 06/13/11

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.

CG/dj

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