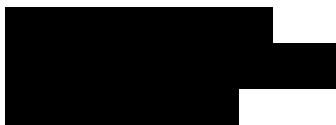


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201135637
Issue No: 3023
Case No: [REDACTED]
Hearing Date: JUNE 28, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (referred to as "the claimant") request for a hearing received on May 19, 2011. After due notice, a telephone hearing was held on June 28, 2011. The claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined the claimant's eligibility for Food Assistance Program (FAP) benefits following the claimant's service of a noncooperation penalty period?

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 January 5, 2010, the claimant, a FAP recipient, received her 4th (fourth) sanction for noncooperation with employment related activities. (Department Exhibit 6). The sanction period began February 1, 2010. (Department Exhibit 6)
2. The claimant served a penalty for noncooperation with employment related activities. (Department Exhibit 7). Her FAP allotment prior to the sanction was [REDACTED]. (Department Exhibits 5-6).
3. In late February or early March, 2011, the claimant called the department caseworker and inquired about how to end the sanction. (Hearing Summary).
4. On March 28, 2011, the department sent claimant a FIP/FAP/RAP Compliance Test (DHS-402) requesting the claimant complete the form and provide 3 (three) employer contacts within 10 days beginning April 1, 2011. (Department Exhibit 1).

5. The claimant completed the DHS-402 form and faxed the documents to the department on April 14, 2011. (Department Exhibit 2).
6. The department ended the claimant's sanction period on April 30, 2011. (Hearing Summary).
7. On May 1, 2011, the claimant's FAP increased to [REDACTED]. (Department Exhibit 5).
8. On May 19, 2011, the claimant requested a hearing because she believed that her sanction period should have ended earlier beginning on March 1, 2011 rather than on May 1, 2011 and, accordingly, she is entitled to retroactive FAP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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. The department's policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

DHS requires participation in employment and/or self-sufficiency related activities associated with the Family Independence Program (FIP) or Refugee Assistance Program (RAP). BEM 233B. Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment. BEM 233B. 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. BEM 233B.

Policy provides that 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. 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. BEM 233B.

When the department learns and verifies that the person has met any of the criteria above after a disqualification has actually taken effect, the department will restore benefits beginning the month **after** the noncompliant person reports meeting the criteria. BEM 233B.

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). BEM 233B.

When a disqualified client indicates a willingness to comply, provide an opportunity to test his/her compliance. BEM 233B. Arrange for testing within 10 workdays of the contact, provided it is no earlier than one month before a minimum disqualification period ends. BEM 233B.

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, the department will recalculate the group's FAP benefit amount with him/her included. BEM 233B.

In this case, the claimant's FAP noncompliance sanction period began on February 1, 2010. More than 1 (one) year later, the claimant expressed a willingness to comply and have the FAP sanction removed. The claimant could not recall the date (February or March 2011) she contacted the department caseworker requesting that her sanction be lifted. However, when the department sent the claimant the Compliance Test (DHS-402) on March 28, 2011, the claimant was provided with a reasonable opportunity to test her compliance in accordance with policy. (It should be noted that the claimant sent the compliance test on April 14, 2011, which was beyond the 10 day deadline.)

After the department received and verified that the claimant has completed the compliance test on April 14, 2011, the department properly ended the sanction period on April 30, 2011. The department also properly restored the claimant's FAP benefits beginning the month **after** the claimant met the criteria by submitting the compliance test. BEM 233B. The month after the claimant complied was May, 2011. Therefore, the department properly increased the claimant's FAP benefits to from [REDACTED] to [REDACTED] on

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May 1, 2011. The claimant was not entitled to have the noncompliance sanction removed and begin collecting FAP benefits at an earlier date.

Therefore, the department's FAP eligibility determination was correct based on the claimant's service of the noncooperation penalty period.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in determining the claimant's FAP eligibility.

The department's FAP eligibility determination is AFFIRMED.

It is SO ORDERED.

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

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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