

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-25524
Issue No.: 3003, 3029
Case No.: [REDACTED]
Hearing Date: February 21, 2013
County: Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 21, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED]

ISSUE

Did the Department properly close and sanction the Claimant's Food Assistance Program (FAP) case?

FINDINGS OF FACT

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

1. As of December 10, 2012 the Claimant was receiving FAP benefits.
2. On December 10, 2012, the Claimant notified the Department he had lost his job.
3. On December 10, 2012, the Department sent the Claimant a verification checklist.
4. On January 9, 2013, the Claimant told the Department his employer refused to complete the employment verification.
5. On January 18, 2013, the Department contacted the Claimant's former employer. The employer told the Department the Claimant lost his job due to tardiness and noncompliance with required work expectations.

6. On January 18, 2013, the Department sent the Claimant a notice of noncompliance and notice of case action. The notice of noncompliance indicated the Claimant refused employment and indicated a triage date of January 24, 2013. The notice of case action indicated the Claimant's FAP benefits were to close effective February 1, 2013.
7. On January 18, 2013, the Claimant requested a hearing.
8. On January 24, 2013, the Department and the Claimant participated in a triage. During the triage, the Department determined the Claimant did not have good cause for being terminated from his employment.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

DHS requires participation in employment and/or self-sufficiency related activities associated with the Family Independence Program (FIP) or Refugee Assistance Program (RAPC). Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment. There are consequences for a client who refuses to participate in FIP/RAPC employment and/or self-sufficiency-related activities or refuses to accept or maintain employment without good cause. BEM 233B.

Disqualify a FAP group member for noncompliance **when all the following exist:**

- The client was active both FIP/RAPC and FAP on the date of the FIP/RAPC noncompliance.
- The client did not comply with FIP/RAPC employment requirements.
- The client is subject to a penalty on the FIP/RAPC program.
- The client is **not** deferred from FAP work requirements; see DEFERRALS in **BEM 230B**.
- The client did not have good cause for the noncompliance.

For FAP only noncompliance, a group member can be disqualified for refusing employment **or** voluntarily quitting a job of 30 hours or more per week without good cause, **or** voluntarily reducing hours of employment below 30 hours per week without good cause. There is another **or** on page 3 of BEM 233B, but there is nothing listed after it. There is a possibility that the drafters of this policy intended for there to be

consequences for those whom were terminated from their position without good cause, but BEM 233B is silent in this regard.

The Department did argue that being terminated from a position is the same as voluntarily quitting or voluntarily reducing hours. But I disagree. The two are vastly different, and I do not think one would voluntarily be terminated from his job. If one did, it would be considered a quit and not a termination.

In the present case there was no evidence presented that the Claimant was a FIP/RAPC recipient and therefore, the policy in question should be the **FAP only noncompliance portions**. Nowhere in this policy section does it indicate the Claimant can lose FAP benefits when his/she is terminated from his/her position without good cause. For this reason, I am reversing the Department.

Based upon the above Findings of Fact and Conclusions of Law, I find the Department improperly closed the Claimant's FAP case.

DECISION AND ORDER

I find the Department did not act properly, based upon the above Findings of Fact and Conclusions of Law.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a redetermination as to the Claimant's eligibility for FAP benefits beginning February 1, 2013 and issue retroactive benefits if otherwise eligible and qualified.

/s/
Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 22, 2013

Date Mailed: February 22, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CAA/las

cc:

