

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 2014-15319
Issue No(s): 3007
Case No.: ██████████
Hearing Date: January 6, 2014
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective November 1, 2013, ongoing, based on his failure to participate in employment-related activities without good cause?

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 recipient of FAP benefits. See Exhibit 1.
2. In ██████████, Claimant was fired from his employment due to an altercation at work and notified the Department of this event.
3. Due to the Claimant being fired from his employment, the Department found him to be in noncompliance with an employment-related activity on August 20, 2013. See Exhibit 1.

4. On October 7, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on October 15, 2013. Exhibit 1.
5. On October 7, 2013, the Department sent Claimant a Notice of Case Action notifying him that the FAP benefits were closed, effective November 1, 2013, ongoing, based on his failure to participate in employment-related activities without good cause. Exhibit 1.
6. On October 15, 2013, Claimant failed to attend his triage appointment and the Department determined no good cause for his failure to participate in employment-related activities.
7. On November 21, 2013, Claimant filed a hearing request, protesting his FAP closure. See Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

In this case, Claimant was an ongoing recipient of FAP benefits. See Exhibit 1. In ██████, Claimant testified that he had an altercation at work and was told to go home. Moreover, Claimant testified that he notified his DHS caseworker of the work altercation. Claimant testified that his DHS worker stated that there was no issue with his FAP benefits based on the work altercation. As of today's hearing, Claimant testified that he did not go back to his employer since the work altercation. However, the Department found Claimant to be in noncompliance due to him being fired from his employment. On October 7, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on October 15, 2013. Exhibit 1. Also, on October 7, 2013, the Department sent Claimant a Notice of Case Action notifying him that the FAP benefits were closed, effective November 1, 2013, ongoing, based on his failure to participate in employment-related activities without good cause. Exhibit 1.

On October 15, 2013, Claimant failed to attend his triage appointment and the Department determined no good cause for his failure to participate in employment-related activities. Claimant testified that he did not attend his triage appointment based on his conversation he had with his DHS caseworker. Claimant testified that his DHS worker stated that there was no issue with his FAP benefits based on the work altercation and therefore, he thought he did not need to attend his triage appointment.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may apply when the client is pending or active FAP only and refuses employment (voluntarily quits a job or voluntarily reduces hours of employment) without good cause. BEM 233B (July 2013), p. 1.

Non-deferred adult members of FAP households must follow certain work-related requirements in order to receive food assistance program benefits. BEM 233B, p. 4. The Department disqualifies 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. BEM 233B, p. 4.

For the first occurrence, the Department disqualifies the person for one month or until compliance, whichever is longer. BEM 233B, p. 6.

When a client has refused suitable employment, the Department holds a triage appointment/phone conference to determine good cause prior to the negative action period. BEM 233B, pp. 5-6. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with DHS. BEM 233B, p. 6. If the client does not participate in the triage meeting, the Department determines good cause for FAP based on information known at the time of the determination. BEM 233B, p. 6.

Good cause is a valid reason for failing to participate in employment and/or self-sufficiency-related activities or refusing suitable employment. BEM 233B, p. 7. The Department investigates and determines good cause before deciding whether to impose a disqualification. BEM 233B, p. 7. Good cause can include meeting a deferral; client unfit for the job; health or safety risk; illness or injury; religion; net income loss; no child care; no transportation; and other reasons listed in BEM 233B. BEM 233B, pp. 7-10.

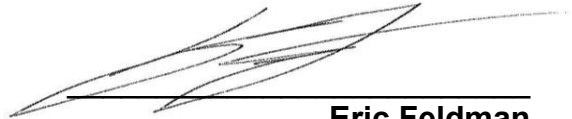
Based on the foregoing information and evidence, the Department properly closed Claimant's FAP benefits effective November 1, 2013, ongoing, in accordance with Department policy. First, Claimant admitted that he was in a work altercation and has since not been employed and/or working at his former employer. Based on this information, it is found that Claimant had failed to participate in employment-related activities because he was fired from his employment. See BEM 233B, p. 4. As such, Claimant was in non-compliance with his FAP benefits because he did not follow his work-related requirements when receiving FAP benefits. See BEM 233B, p. 4. Second, even though Claimant failed to attend his triage appointment, it is still found that Claimant failed to participate in employment-related activities without good cause. Exhibit 1. Claimant did not provide credible testimony of any good cause reasons as listed in BEM 233B. BEM 233B, pp. 7-10. Moreover, Claimant was unable to actually provide dates of when the altercation occurred or when he spoke to his DHS caseworker about his non-compliance. Ultimately, Claimant did not provide credible testimony to render or determine good cause reasons. The Department determined no good cause for the FAP non-compliance. See BEM 233B, p. 6. Therefore, the

Department properly disqualified Claimant from his FAP benefits for his first non-compliance effective November 1, 2013, ongoing.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it properly disqualified Claimant from his FAP benefits for his first non-compliance occurrence effective November 1, 2013, ongoing.

Accordingly, the Department's FAP decision is AFFIRMED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 13, 2014

Date Mailed: January 13, 2014

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

2014-15319/EJF

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/tlf

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]