

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

IN THE MATTER OF:



Reg. No.: 201419921
Issue No.: 3007
Case No.: [REDACTED]
Hearing Date: January 29, 2014
County: Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 29, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly terminated his Food Assistance Program (FAP) because he voluntarily quit a job?

FINDINGS OF FACT

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

1. The Claimant was an ongoing Food Assistance Program (FAP) recipient until January 1, 2014.
2. On November 15, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) and Verification of Employment (DHS-38) with a due date of November 25, 2013, requesting that the Claimant clarify the nature of his loss of employment.
3. On December 16, 2013, the Department discovered through a collateral contact with the Claimant's former employer that the Claimant stopped showing up for work and a replacement had been hired.
4. On December 16, 2013, the Department notified the Claimant that it would close his Food Assistance Program (FAP) benefits as of January 1, 2014.
5. On December 23, 2013, the Claimant reported to the Department in a telephone call that his loss of employment was due to an injury.

6. The Department received the Claimant's request for a hearing on December 23, 2013, protesting the closure of his Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

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.

The Department of Human Services (Department) has a unique opportunity to assist families in becoming strong, viable, participative members of the community. By involving the adult members of the household in employment-related activities, we help restore self-confidence and a sense of self-worth. These are cornerstones to building strong, self-reliant families. Department of Human Services Bridges Eligibility Manual (BEM) 230B (October 1, 2013), p 1.

Non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance. However, unlike cash benefits, which are tied to participation in Partnership. Accountability. Training. Hope. (PATH), there are no hourly PATH requirements for the Food Assistance Program. In order to receive FAP benefits, non-deferred adults must comply with the following work requirements:

Non-deferred adults who are already working may not do any of the following:

- Voluntarily quit a job of 30 hours or more per week without good cause.
- Voluntarily reduce hours of employment below 30 hours per week without good cause. BEM 230B.

When a Food Assistance Program (FAP) recipient refuses suitable employment, the Department will process a Notice of Employment and/or Self-Sufficiency Related Noncompliance (DHS-2444). The Department will hold a triage appointment or phone conference to determine good cause before the negative action period. If the Food Assistance Program (FAP) recipient does not participate in the triage meeting or phone conference, the Department will determine good cause based on information known at the time of the determination. Department of Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), pp 5-6.

Good cause is a valid reason for failing to participate in employment and/or self-sufficiency-related activities or refusing suitable employment. The Department may find good cause where the Food Assistance Program (FAP) recipient has a debilitating illness or injury. BEM 233B, p 8.

In this case, the Claimant was an ongoing Food Assistance Program (FAP) recipient when the Department discovered that the Claimant had lost his employment. On November 15, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) and a Verification of Employment (DHS-38) with a due date of November 25, 2013, requesting that the Claimant clarify the nature of his loss of employment. On December 16, 2013, the Department discovered through a collateral contact with the Claimant's former employer that the Claimant stopped showing up for work and a replacement had been hired. On December 16, 2013, the Department notified the Claimant that it would close his Food Assistance Program (FAP) benefits as of January 1, 2014.

On December 23, 2013, the Claimant reported to the Department in a telephone call that his loss of employment was due to injury.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department failed to conduct a triage meeting or telephone conference to determine whether the Claimant had good cause for refusing employment. The Department also failed to establish that it considered good cause based on the information available.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), cert den, 318 US 783 (1943).

The Claimant testified that due to an injury, he was unable to complete the tasks required of him on his former job, and that he notified the Department of his injury by telephone.

This Administrative Law Judge finds that the Claimant had good cause for refusing suitable employment due to an injury that prevented him from performing the duties required on his former job.

Therefore, this Administrative Law Judge finds that the Department failed to establish that it was acting in accordance with policy when it terminated the Claimant's Food Assistance Program (FAP) benefits.

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 did not act in accordance with Department policy when it terminated the Claimant's Food Assistance Program (FAP) benefits for refusing suitable employment.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of January 1, 2014.
2. Provide the Claimant with a Notice of Case Action (DHS-16 05) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.

Kevin


Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 31, 2014

Date Mailed: February 3, 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;

201419921/KS

- 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

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

KS/hj

cc:

