

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-28946
Issue No.: 3007
Case No.: [REDACTED]
Hearing Date: March 25, 2014
County: Oakland-04

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 March 25, 2014 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits due to Claimant's noncompliance with the Partnership Accountability Training Hope (PATH) program requirements?

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 lives with her two children at all times.
2. Beginning November, 2012, Claimant was placed on a FAP sanction for failure to comply with employment-related requirements.¹
3. Claimant applied for FAP on February 6, 2014.
4. On February 7, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which approved Claimant's FAP for \$ [REDACTED] per month effective February 6, 2014 through February 28, 2014 for a household size of 2. Effective March 1, 2014 through January 31, 2015, Claimant will receive FAP at \$ [REDACTED] per month. Under the "Comments From Your Specialist About This Notice" section, the

¹ The Department did not provide documentation in the hearing record to show the length of Claimant's sanction period.

following was indicated, "You will not be eligible for food until you comply with employment requirements. That is 30 hrs/wk at minimum wage or making the equivalent of that."

5. On February 18, 2014, the Department received Claimant's request for hearing which challenged the Department's decision to remove Claimant from the FAP group due to the sanction because is unable to work due to a disability.

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.

DHS requires participation in employment and/or self-sufficiency-related activities associated with the Family Independence Program (FIP) or Refugee Cash Assistance (RCA). 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/RCA employment and/or self-sufficiency-related activities or refuses to accept or maintain employment without good cause. BEM 233B, p 1 (7-1-2013).

The policies in [BEM 233B] apply to all FAP applicants and recipients age 16 and over. Noncompliance without good cause, with employment requirements for FIP/RCA may affect FAP if both programs were active on the date of the FIP noncompliance; see BEM 233A. BEM 233B, p 1.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two [sic] situations: (1) Client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause. (2) Client is active RCA and becomes noncompliant with a RCA program requirement. (3) Client is pending or active FAP only and refuses employment (voluntarily quits a job or voluntarily reduces hours of employment) without good cause.

At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP. BEM 233B, p 1.

The Department will disqualify a FAP group member for noncompliance when all the following exist:

- (1) The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- (2) The client did not comply with FIP/RCA employment requirements.
- (3) The client is subject to a penalty on the FIP/RCA program.
- (4) The client is **not** deferred from FAP work requirements; see DEFERRALS in BEM 230B.
- (5) The client did not have good cause for the noncompliance. BEM 233B, p 3.

Disqualifications for failure to comply without good cause are the same for FAP applicants, recipients and member adds. The Department should evaluate each client's work requirement before imposing a disqualification; see BEM 230B DEFERRALS. For the first occurrence, the Department will disqualify the person for one month or until compliance, whichever is longer. For a second or subsequent occurrence, disqualify the person for six months or until compliance, whichever is longer. Bridges counts any previous FIP or RCA-related FAP penalty as a first or subsequent occurrence. BEM 233B, p 6.

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 pp 10-11.

End the disqualification early if the noncompliant person either:

- 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.
- Leaves the group. BEM 233B, pp 10-11.

If the person has met any of the criteria above after a disqualification has actually taken effect, restore benefits beginning the month after the noncompliant person reports meeting the criteria. BEM 233B, p 11.

If the noncompliant person does not meet the criteria above for ending a disqualification early, a five-day, 20-hour compliance test must be completed before eligibility is regained. In addition, the minimum disqualification period must be served. BEM 233B, p 11.

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.

When a disqualified client indicates a willingness to comply, provide an opportunity to test his/her compliance. Arrange for testing within 10 work days of the contact, provided it is no earlier than one month before a minimum disqualification period ends. BEM 233B, p 11.

The test consists of five days of employment and/or self-sufficiency-related activities totaling 20 hours. A client may elect to do the test with a community service agency. If so, just verify participation. 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), and other employment and/or self-sufficiency-related activities. If the person completes the test, recalculate the group's FAP benefit amount with him/her included. BEM 233B, p 11.

Here, the Department contends that Claimant's FAP application was denied because she failed to comply with employment requirements. According to the Department, Claimant's sanction was in place since November, 2012 and that Claimant "had been working but was doing personal childcare and was not meeting the requirement of the equivalent of 30 hrs/wk at minimum wage. She was making \$█/wk." (See Hearing Summary) Claimant, on the other hand, contends that she cannot work due to an injury following a car accident that took place in October, 2013. Claimant provided the Department with documentation from her physician to show that she was disabled. The Department indicates that the documentation was ambiguous due to a date discrepancy as it provides that she is disabled until April, 2013. Claimant states that the document should properly provide that Claimant is disabled through April, 2014, but neither party provided any documentation into evidence to show that this was true. The Department then indicates that Claimant was mailed a DHS-54A on February 20, 2014 for her physician to complete, but that Claimant has not returned it.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department did not provide an overabundance of

documentation in this hearing record for the Administrative Law Judge to consider. However, both parties agreed that Claimant was sanctioned for violations of employment related activities. Both parties also concede that Claimant was required to work at least 30 hours per week at minimum wage. Claimant's only contention was that she cannot meet this requirement due to a disability. This Administrative Law Judge had reviewed Claimant's documentation which consists of two documents. The first document is dated October 23, 2013 and is signed by a physician and indicates that Claimant is disabled only from driving activities from October 28, 2013 through November 30, 2013 arising out of a motor vehicle accident. The second document is entitled, "Prescription for Attendant Care, Replacement Services, Work Disability and/or Transportation Services." This document is also apparently signed by a physician on December 6, 2013 and provides that Claimant, as a result of the car accident on October 21, 2013, is disabled from replacement services and work from October 21, 2013 through April 21, 2013. This document is problematic and contains obvious date discrepancies. There were no additional documents in the record to support Claimant's claim of disability. Based on the documentation, this Administrative Law Judge finds that Claimant did not provide sufficient evidence to show that she qualifies for a deferral from work requirements as defined by BEM 233B. Claimant has not shown that she should be excused from the employment requirements nor has she shown that the FAP sanction should be lifted. This Administrative Law Judge finds that Claimant should reapply and then provide the Department with a DHS-54A, medical records and any other documents required by the Department to establish a disability.

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 denied Claimant's FAP application.

DECISION AND ORDER

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

IT IS SO ORDERED.



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

Date Signed: April 1, 2014

Date Mailed: April 1, 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

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

CAP/las

cc:

