

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-002330
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: JUNE 11, 2014
County: MACOMB-DISTRICT 12

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 June 11, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP) benefits?

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.
2. On February 4, 2013, the Department sent Claimant a Notice of Case Action informing her that effective March 1, 2013, her group's FAP benefits would be decreased and that she would be disqualified from receiving FAP benefits from March 1, 2013, to August 31, 2013, based on her failure to participate in employment related activities without good cause. (Exhibit 1)
3. The above Notice also informed Claimant that she may reapply for benefits after August 1, 2013, and will have to pass a compliance test unless working 20 hours per week. (Exhibit 1)

4. In January 2014, Claimant submitted an application for FAP benefits to be included as a FAP group member and have her eligibility to receive FAP benefits determined.
5. On April 28, 2014, Claimant submitted a hearing request disputing the Department's failure to process the January 2014 FAP application.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, non-deferred adult members of FAP households must comply with certain work related requirements in order to receive FAP benefits. BEM 233B (July 2013), pp.4-5. The first occurrence of failing to comply with employment related activities without good cause results in a FAP group member disqualification of one month or until compliance, whichever is longer. For a second or subsequent occurrence, the Department will disqualify a client for six months, or until compliance, whichever is longer. BEM 233B, pp.6-7. 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 per week or meets the FAP deferral criteria. BEM 233B, p.11.

When a disqualified client indicates a willingness to comply, the Department is to provide an opportunity to test his/her compliance by arranging for testing within 10 work days of the contact, provided it is no earlier than one month before a minimum disqualification period ends. Applying for three jobs within 10 days can be considered a method of passing and completing the compliance test. If the person completes the test, the Department is to recalculate the group's FAP benefit amount and include the client in the group. BEM 233B, pp. 11-12.

In this case, Claimant was previously disqualified from receiving FAP benefits for six months based on her failure to comply with employment related activities without good cause. The Notice of Case Action presented by the Department indicated that Claimant's disqualification was to end on August 31, 2013, and that she could reapply for benefits, provided she completed the compliance test as discussed above. At the hearing, Claimant credibly testified that on multiple occasions, she submitted job

applications in order to meet the compliance test and be added back to her FAP group. Claimant stated that when the Department did not add her back on to her FAP case, she submitted a new application for FAP benefits in January 2014.

The Department testified that it received the application but that it was not sure whether the application was registered or processed to determine Claimant's eligibility for FAP benefits. The Department stated that as of the hearing date, Claimant was still subject to the employment disqualification, but was unable to explain why. The Department acknowledged that Claimant was not given an opportunity to comply as required by BEM 233B.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's FAP benefits.

DECISION AND ORDER

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. Remove the employment disqualification/penalty imposed on Claimant's FAP case;
2. Process Claimant's January 2014, application for FAP benefits;
3. Recalculate Claimant's group's FAP budget to include her as a qualified group member from January 2014, ongoing;
4. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from January 2014, ongoing; and
5. Notify Claimant of its decision in writing.



Zainab Baydoun

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

Date Signed: **6/17/2014**

Date Mailed: **6/18/2014**

ZB / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

