

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

IN THE MATTER OF:



Reg. No.: 14-005909
Issue No.: 3007
Case No.: [REDACTED]
Hearing Date: August 21, 2014
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on August 21, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly imposed a Food Assistance Program (FAP) disqualification due to Claimant's termination of employment.

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 FAP recipient.
2. Claimant was an ongoing employee for a department store.
3. On an unspecified date, Claimant was fired from her department store employment.
4. On an unspecified date, DHS imposed an employment-related disqualification.
5. On [REDACTED], Claimant requested a hearing to dispute the FAP disqualification.

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

Claimant requested a hearing to dispute a FAP determination. Specifically, Claimant disputed the DHS imposition of an employment-related disqualification which caused a reduction of FAP benefit eligibility. DHS has policy to address when FAP disqualifications are appropriate for employment-related activities.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following situations:

- Client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause.
- Client is active RCA and becomes noncompliant with a RCA program requirement.
- 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 (7/2013), p. 1.

DHS did not address Claimant's FAP disqualification in their Hearing Summary. During the hearing, DHS cited the above FAP policy. DHS testimony was suggestive that neither Family Independence Program (FIP) nor Refugee Cash Assistance (RCA) eligibility was a factor in the FAP disqualification. Thus, the evidence was supportive that DHS imposed the disqualification based on the third circumstance listed in the above policy.

DHS presented testimony that Claimant was fired from her employment with a department store. DHS also stated that an employment-related disqualification was imposed because Claimant did not have good cause for getting fired. Based on the above policy, Claimant can only be penalized for quitting a job or for reducing hours, not for getting fired.

During the hearing, after DHS realized that Claimant could not be FAP penalized for getting fired, DHS then alleged that Claimant quit her job. DHS provided testimony that Claimant was cryptic when describing her job separation; thus, it was difficult to discern whether Claimant was fired or quit. After listening to Claimant's explanation for why she lost her job, there is some sympathy for the DHS allegation. Claimant could not state

whether she was fired or quit. Overall, Claimant's testimony was suggestive that she was fired.

Claimant testified that she was wrongfully suspended, returned to work for one day, demanded a meeting with her store manager, and was never scheduled to work again. Claimant's testimony was consistent with an Incident Report (Exhibit A1). Claimant also testified that she repeatedly called her employer to inquire when she would work again. If Claimant made attempts to work and her employer was unresponsive, she was constructively fired.

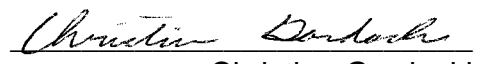
Based on DHS policy, a FAP employment-related disqualification may not be imposed for an involuntary termination of employment. Accordingly, it is found that DHS improperly imposed an employment-related disqualification against Claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly imposed an employment-related disqualification against Claimant. It is ordered that DHS perform the following actions:

- (1) delete the employment-related disqualification against Claimant related to Claimant's employment with a department store; and
- (2) supplement Claimant for any benefits improperly not issued.

The actions taken by DHS are **REVERSED**.


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

Date Signed: September 11, 2014

Date Mailed: September 11, 2014

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:

