

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

IN THE MATTER OF:

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██████████████████
██████████████████

Reg. No.: 14-014584
Issue No.: 3001
Case No.: ██████████
Hearing Date: November 20, 2014
County: Wayne-District 57

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 November 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████ ██████, Family Independence Manager.

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 July 14, 2014, the Department sent Claimant a Notice of Case Action informing her that effective August 1, 2014, the Department intended to terminate her Family Independence Program (FIP) benefits and impose a six month FIP sanction based on a failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 4)
3. The July 14, 2014, Notice of Case Action also informs Claimant that effective August 1, 2014, the Department intended to reduce her FAP benefits by disqualifying Claimant as a FAP group member on the basis that she voluntarily quit a job, reduced hours of employment or failed to participate in a FAP

employment related activity requirement without good cause. The Notice further states that Claimant may reapply at any time if she becomes deferred from an employment related activity, obtains comparable employment, leaves the group or becomes eligible for Cash Assistance Program. (Exhibit 4)

4. On or around October 3, 2014, Claimant requested a hearing disputing the Department's actions and the imposition of the employment sanction.
5. On October 6, 2014, the Department received written documentation of Claimant's verification of employment which began on July 10, 2014. (Exhibit 1).
6. On October 14, 2014, a Pre-Hearing Conference was held concerning the October 3, 2014, request for hearing.
7. At the October 14, 2014, Pre-Hearing Conference, Claimant signed a Hearing Request Withdrawal In Person (DHS-18M) on the basis that the Department found her to be in compliance with FAP work requirements as she had obtained employment, that the Department would remove the FAP employment sanction placed on her case and that her FAP budget would be recalculated to include her as a group member.
8. On October 17, 2014, the Department sent Claimant a Notice of Case Action informing her that effective October 11, 2014, she was included as a FAP group member and approved for FAP benefits based on a group size of two. (Exhibit 5)
9. On October 21, 2014, Claimant submitted a second hearing request disputing the Department's actions.

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. Noncompliance without good cause with employment requirements for FIP may

affect FAP if both programs were active on the date of FIP non-compliance. BEM 233B, p. 1. An individual is disqualified from a FAP group for noncompliance when the client had active FIP and FAP benefits on the date of the FIP noncompliance; the client did not comply with the FIP employment requirements; the client is subject to penalty on the FIP program; the client is not deferred from FAP work requirements; and the client did not have good cause for the noncompliance. BEM 233B, pp. 2-3. Disqualifications for failure to comply without good cause are the same for FAP applicants, recipients and member adds. For the first occurrence of noncompliance without good cause, the Department will disqualify the client for one month or until compliance, whichever is longer. For the second occurrence of noncompliance without good cause, the Department will disqualify the client for six months or until compliance, whichever is longer. 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. The Department is to 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 application/recipient; or 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, the Department is to restore benefits beginning the month after the noncompliant person reports meeting the criteria. BEM 233B, p.11.

In this case, the Department testified that Claimant's FAP benefits were reduced and she was disqualified as a FAP group member because she was determined to have been noncompliant with FIP work requirements. The Department stated that it sent Claimant a Notice of Case Action on July 14, 2014, informing her that effective August 1, 2014, her FAP benefits would be reduced and that she would be disqualified as a member of her FAP group on the basis that she did not have good cause for her failure to cooperate with work-related activities. (Exhibit 4). The Notice further states that Claimant may reapply at any time if she becomes deferred from an employment related activity, obtains comparable employment, leaves the group or becomes eligible for Cash Assistance Program. (Exhibit 4). The Department testified that on October 6, 2014, it received the documentation needed to verify that Claimant had gained employment on July 10, 2014. (Exhibit 1).

The Department further testified that during the Pre-Hearing Conference concerning the October 3, 2014, hearing request that was withdrawn; it informed Claimant that because she was employed, she was now in compliance with work related activities for FAP and that the Department would end the FAP disqualification and recalculate her FAP benefits to include her as a FAP group member. The Department recalculated Claimant's FAP budget to reflect the increased group size effective October 11, 2014, and subsequently sent her a Notice of Case Action on October 17, 2014. (Exhibit 5).

On October 21, 2014, Claimant requested a hearing disputing the Department's actions. At the hearing, Claimant credibly testified that she initially reported to the Department that she had gained employment on Monday, July 14, 2014. Claimant asserted that because she reported her employment on July 14, 2014, she should have received a supplement for FAP benefits from the date she reported, rather than the October 11, 2014, date determined by the Department.

Claimant testified that she gained employment with [REDACTED] on July 10, 2014, and that on July 14, 2014, she contacted her case worker, [REDACTED] to report the new employment and to inquire as to why there was an employment sanction on her case. Claimant stated that she called her case worker repeatedly and left her numerous messages without any response. Claimant testified that she also came to the local office to meet with her case worker but each time, her case worker was not available. Claimant stated that she finally spoke with [REDACTED] on or around August 3, 2014, when she returned Claimant's phone call. Claimant stated that she was informed by her Department case worker that she did not know why there was an employment sanction on her case and that Claimant would have to contact the PATH worker concerning the sanction and the gained employment, as the PATH worker was the one who could remove the sanction. Claimant further stated that she made several attempts to contact the PATH worker and when she got in touch with [REDACTED] from the PATH program, the PATH worker informed her that she too did not know why an employment sanction was on her case. Claimant provided additional details and testimony concerning the reporting of her employment in July 2014, and other communications she had with Department employees. Claimant's testimony remained unrefuted, as the Department representative present for the hearing was not Claimant's assigned case worker or PATH worker.

Based on the evidence presented, it is found that Claimant timely reported her gained employment on July 14, 2014, thereby ending her FAP disqualification before it was set to begin in August 2014. Pursuant to BEM 233B, the Department should have restored Claimant's FAP benefits in August 2014, rather than October 2014.

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 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. Recalculate Claimant's FAP budget to include Claimant as a qualified FAP group member for August 1, 2014, ongoing; and
2. Issue FAP supplements to Claimant from August 1, 2014, ongoing, in accordance with Department policy.



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

Date Signed: **11/26/2014**

Date Mailed: **11/26/2014**

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 48909-8139

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]