

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-13727
Issue No(s): 3001
Case No.: [REDACTED]
Hearing Date: January 15, 2014
County: Kent

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 15, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED] and Family Independence Manager [REDACTED].

ISSUE

Did the Department properly close 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 on-going FAP recipient.
2. On October 20, 2013, a Verification Checklist was mailed to Claimant.
3. On October 31, 2013, the Department received a Verification of Employment form from [REDACTED] which said Claimant had quit her job on August 12, 2013.
4. On November 1, 2013, the Department mailed a Notice of Case Action informing Claimant that her FAP was being closed effective December 1, 2013 because she had voluntarily quit her job.
5. On November 12, 2013, Claimant requested a hearing.

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.

BEM 230B defines the work obligations imposed on FAP recipients. Specifically, at page 2 it says:

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.

Also,

Non-deferred adults who are not working or are working less than 30 hours per week must:

Accept a bona fide offer of employment.

Participate in activities required to receive unemployment benefits if the client has applied for or is receiving unemployment benefits.

Claimant was working through a staffing agency at a temporary assignment. She would ride a bus to-and-from the assignment. There were many days that she would show up for work when she was on the "wait to punch list" which required a number of employees to report to the job site and wait to see if work was available. If no work was available, they would be sent home without any earnings for the day.

The staffing agency originally reported (Exhibit 1, page 29) in a fax received by the Department October 31, 2013, that Claimant had quit her job. In a fax received November 11, 2013, the same employer reported that she was "laid off." See Exhibit 1, page 50. Claimant testified that she did not quit; she was laid off.

The Department's witness testified that she received conflicting reports about how Claimant became separated from her previous employment. Originally the employer said she quit, but later the employer said she was laid off due to lack of work. The

Claimant testified that she was laid off. In any case, she was not working at a job that was 30 hours or more per week. There is no evidence that she voluntarily reduced her hours of employment below 30 hours per week, or that she did not accept a bona fide offer of employment.

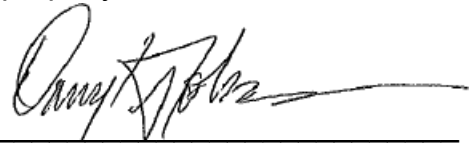
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP.

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. Redetermine Claimant's FAP benefit eligibility, effective December 1, 2013;
2. Issue a supplement to Claimant for any benefits improperly not issued.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 15, 2014

Date Mailed: January 16, 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

DTJ/las

cc:

