

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201450
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: October 29, 2013
County: Ingham

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 October 29, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED], acting as a translator for the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly sanctioned the Claimant's Refuge Cash Assistance (RCA) and Food Assistance Program (FAP) benefits for noncompliance with employment related activities?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing recipient of Refuge Cash Assistance (RCA) and Food Assistance Program (FAP) benefits.
2. On August 5, 2013, the Department notified the Claimant that it considered him to be noncompliant with the Refuge Cash Assistance (RCA) program for refusing employment.
3. The Department conducted a triage meeting on August 14, 2013.
4. On August 5, 2013, the Department notified the Claimant that it would sanction his Refuge Cash Assistance (RCS) and Food Assistance Program (FAP) benefits for refusing employment.

5. The Department received the Claimant's request for a hearing on September 12, 2013, protesting his Refugee Cash Assistance (RCA) and Food Assistance Program (FAP) sanctions.

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.

The Refugee Assistance Program (RAP) is a federal program established by the U.S. Congress pursuant to The Immigration and Nationality Act and the Code of Federal Regulations 45 CFR 400 and P.L. 106-386 of 2000, Section 107. The Department of Human Services (formerly known as the Family Independence Agency) administers the RAP program. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Department requires clients to participate in employment and/or family self-sufficiency-related activities and to accept employment when offered. Refugee contractors work with families in removing barriers as well as surmounting challenges and concerns when recipients fail, without good cause, to comply with employment requirements. If these efforts to engage recipients in participation do not succeed, clients must experience the consequences of their decisions and actions. Department of Human Services Bridges Eligibility Manual (BEM) 233C (July 1, 2013), pp 1-9.

Noncompliance with an employment and/or self-sufficiency-related activity means any of the following:

- Failing or refusing to:
 - Comply with activities assigned to the MP on the Refugee Family Self-Sufficiency Plan (RFSSP) as created with the Refugee Contractor (RC).
 - Participate in employment and/or self-sufficiency-related activities.
 - Accept a job referral and/or offer of employment.
 - Register/participate with the RC for employment services.
 - Participate in any arranged job interview or scheduled appointment.
 - Participate in any employability service program which provides job or language training, which is determined to be available and appropriate for the client.
 - Participate in any social service or targeted assistance program if referred and as available in the area in which the refugee resides.

- Stating orally or in writing a definite intent not to comply with program requirements.
- Threats, physical abuse or other behavior disruptive toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. Id.

Good cause is a valid reason for failing to participate in employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant MP. A claim of good cause must be verified and documented for applicants, recipients and member adds. Id.

Good cause can be established where the client experiences discrimination on the basis of age, race, disability, gender, color, national origin or religious beliefs. Id.

Process FAP using policy in BEM 233B when RCA is closed for noncompliance or refusing suitable employment. Id.

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. Department of Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 2.

In this case, the Claimant was an ongoing Refuge Cash Assistance (RCA) and Food Assistance Program (FAP) recipient. The Department required that the Claimant seek employment to become self-sufficient as required by BEM 233C. When presented with opportunities for employment, the Claimant informed the Department that these jobs would interfere with his efforts to become proficient in English.

The Department conducted a triage meeting on August 14, 2013, where the Claimant was given the opportunity to establish good cause for his noncompliance. The Department did not find good cause. On August 5, 2013, the Department notified the Claimant that it would sanction his Refuge Cash Assistance (RCA) and Food Assistance Program (FAP) benefits as of September 1, 2013.

The Claimant testified that the Department has failed to inform him of the requirements of the Refugee Cash Assistance (RCA) program in a language that he is able to understand. The Claimant testified that his native language is Kurdish, and that the Department communicated with him in Arabic. The Claimant testified that he was not aware that the Department had facilitated employment opportunities for him. The Claimant testified that he had not refused any employment opportunities.

The Claimant testified that he has been discriminated against by Arabic employees of the Department because he is a Kurd, and that the allegations of his noncompliance with the Refugee Cash Assistance (RCA) program are not true.

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). Moreover, 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). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), cert den, 318 US 783 (1943).

This Administrative Law Judge finds the testimony of the Department's representatives to be credible, and that the Department gave the Claimant adequate notice of the requirements of the Refugee Cash Assistance (RCA) program. The Department's representatives testified that they provided the Claimant with sufficient assistance to overcome barriers to his self-sufficiency.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Claimant was aware, or should have been aware of his duty to seek employment in order to become self-sufficient. The Claimant failed to fulfill his duty to seek employment as required by Department policy.

This Administrative Law Judge finds that the Claimant failed to present sufficient evidence or testimony to establish that discrimination has been a barrier to his employment, or that there has been any other good cause factors that prevented him from complying with the requirements of the Refugee Cash Assistance (RCA) in ways that were beyond his control.

Therefore, the Department has established that it was acting in accordance with policy when it sanctioned the Claimant's Refugee Cash Assistance (RCA) and Food Assistance Program (FAP) benefits for noncompliance with work-related activities.

DECISION AND ORDER

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 sanctioned the Claimant's Refugee Cash Assistance (RCA) and Food Assistance Program (FAP) benefits.

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

/s/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 11/04/2013

Date Mailed: 11/04/2013

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

KS/sw

cc:

