

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017927
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: January 15, 2015
County: Kent-District 1

ADMINISTRATIVE LAW JUDGE: Darryl 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 Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED], Assistance Payments Supervisor [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. Claimant applied for FAP benefits.
2. Claimant was previously sanctioned for non-compliance with self-sufficiency requirements found in BEM 233A and subject to disqualification from FAP until she satisfied the FAP compliance test in BEM 233B.
3. On September 22, 2014, the Department denied Claimant's application.
4. On September 25, 2014, the Department sent Claimant notice of its action, informing Claimant that she needed to "report three jobs you have applied for and if you are working let me know b/c that will assist on removing your sanction."
5. On December 3, 2014, Claimant filed a hearing request, protesting the Department's action.

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), and Department of Human Services Reference Tables Manual (RFT).

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.

BEM 230B (10/1/13) explains the Department's policy regarding the importance of clients participating in work, or work-related activities, in order to receive FAP. As stated at page 1,

Department of Human Services (DHS) has a unique opportunity to assist families in becoming strong, viable, participative members of the community. By involving the adult members of the household in employment-related activities, we help restore self-confidence and a sense of self-worth. These are cornerstones to building strong, self-reliant families.

The goal of the Food Assistance Program (FAP) is to ensure sound nutrition among children and adults. In addition, the goal of our employment-related policies for FAP households is to assist applicants and recipients toward self-sufficiency by providing them with opportunities to pursue employment and/or education and training.

It continues at page 2:

Non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance. However, unlike cash benefits, which are tied to participation in Partnership. Accountability. Training. Hope. (PATH), there are no hourly PATH requirements for the Food Assistance Program. In order to receive FAP benefits, non-deferred adults must comply with the following work requirements:

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.

Furthermore,

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.

Note: If a client is an applicant or recipient of unemployment benefits, he/she must follow through with the unemployment benefits program's procedures and requirements. This work requirement does not apply to a client who is clearly not eligible for unemployment benefits. Do not require a client to apply for unemployment benefits in order to receive FAP.

Disqualify FAP clients for noncompliance if the applicant or recipient is neither deferred (see deferrals in this item) nor¹ noncompliant with one of the FAP work requirements listed above.

In a series of emails within the Department (Exhibit 1 Pages 17-17.5) the Department concluded Claimant needed to apply for three jobs within 10 days. That comes from the Compliance Test found in BEM 233B (7/1/13) at pages 11-12:

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 or more per week.
- Meets FAP deferral criteria; see DEFERRALS in BEM 230B.

When a disqualified client indicates a willingness to comply, provide an opportunity to test his/her compliance. Arrange for testing within 10 work days of the contact, provided it is no earlier than one month before a minimum disqualification period ends.

The test consists of five days of employment and/or self-sufficiency-related activities totaling 20 hours. A client may elect to do the test with a community service agency. If so, just verify participation.

Local offices have latitude in the design of compliance tests. Examples of activities include:

- Community Service.
- Work Experience.
- Applying for three jobs within 10 days. Use the DHS-402, FAP Compliance Letter, and Job Application Log.

¹ This paragraph contains a double negative. It instructs the Department to disqualify an applicant if they are not deferred, and if they are not noncompliant. It is presumed this is a drafting error and the paragraph will be interpreted as if it says, "Disqualify FAP clients for noncompliance if the applicant or recipient is neither deferred nor compliant with one of the FAP work requirements listed above."

- Other employment and/or self-sufficiency-related activities.

If the person completes the test, recalculate the group's FAP benefit amount with him/her included.


Claimant testified, and produced evidence, that she has been employed. She worked for [REDACTED] from August 18, 2014 to October 30, 2014, working 40 hours per week. (Exhibit 1 Pages 23-24.) That employment was not verified until October 30, 2014. She left that job to work at [REDACTED] where she initially worked 40 hours per week. That job was reduced to 8-16 hours per week. She then left that job to work for [REDACTED] 25-40 hours per week.

Had Claimant provided verification to the Department of her employment at an earlier date, she could have had the sanction lifted.²

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 denied Claimant's application based upon the on-going sanction.

DECISION AND ORDER

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



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/21/2015**

Date Mailed: **1/21/2015**

DJ/las

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.

² Claimant seems willing to comply with employment-related activities. When she verified her employment, the Department could have lifted the sanction. The undersigned does not, however, have the jurisdiction to make any decisions based upon facts occurring after the Department took the action which led to this hearing.

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:

