

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

IN THE MATTER OF:



Reg. No.: 15-010741
Issue No.: 3001, 3007
Case No.: [REDACTED]
Hearing Date: August 06, 2015
County: WAYNE-DISTRICT 57

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 6, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], FIM.

ISSUE

Did the Department properly impose a one month sanction closing the Claimant's FAP case for noncompliance with FAP employment related activity?

FINDINGS OF FACT

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

1. The Claimant was an ongoing FAP recipient.
2. The Department closed the Claimant's FAP case effective [REDACTED], by Notice of Case Action dated [REDACTED]. The Notice reasons stated that "You ...voluntarily quit a job, reduced hours of employment or failed to participate in a FAP employment-related activity requirement or an equivalent UCB requirement without good cause". Exhibit 1
3. The Claimant and the Department agree that the Claimant was fired from his job as of [REDACTED]. The verification of employment dated [REDACTED], and completed [REDACTED] by the employer does not indicate why Claimant was fired, and the employer did not return the Department calls. Exhibit 2

4. The Department issued a Notice of Noncompliance on [REDACTED], scheduling a triage meeting on [REDACTED]. Exhibit 3
5. The Claimant has applied for unemployment benefits. He is not yet receiving them.
6. The Claimant requested a hearing on [REDACTED], protesting the Department's one month closure of his FAP case.

CONCLUSIONS OF LAW

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

Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Department closed and sanctioned the Claimant's FAP benefits for one month because he was fired from his job. The Claimant was a FAP recipient only. The Claimant credibly testified that he was fired and that the employer gave no reason and he is on the employer's recall list. The Claimant has also applied for Unemployment benefits. The Department policy, found in Failure to Meet Employment Requirements: FAP BEM 233B regarding sanction imposition and closure of FAP benefits provides in pertinent part.

DHS requires participation in employment and/or self-sufficiency-related activities associated with the Family Independence Program (FIP) or Refugee Cash Assistance (RCA). **Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment.** There are consequences for a client who refuses to participate in FIP/RCA employment and/or self-sufficiency-related activities or refuses to

accept or maintain employment without good cause. BEM 233B (July 1, 2013) p.1

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

- 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 p.1.

FAP ONLY NONCOMPLIANCE

Refusing Employment

Non-deferred adult members of FAP households must follow certain work-related requirements in order to receive food assistance program benefits.

Working

Disqualify non-deferred adults who were working when the person:

- Voluntarily quits a job of 30 hours or more per week without good cause, or
- Voluntarily reduces hours of employment below 30 hours per week without good cause, or

Note: If the job quit or reduction in hours occurred more than 30 days prior to the application date, no penalty applies.

Not Working

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

- Accept a bona-fide offer of employment.

Note: A bona fide offer of employment means a definite offer paying wages of at least the applicable state minimum wage.

- Follow through and participate in activities required to receive unemployment benefits (UB) **if** the client has applied for or is receiving UB.

Note: Determine good cause before implementing a disqualification. BEM 233B p. 4-5

The FAP requirements referenced above require that an adult individual must accept and maintain employment. Department policy is very clear and provides with specificity when an individual who is working or not working may be determined to be in noncompliance. In this instance the Claimant was working and thus could only be sanctioned if he voluntarily quits a job of 30 hours or more per week without good cause, or voluntarily reduces hours of employment below 30 hours per week without good cause. In this case neither of these requirements applies, as the Claimant did not quit his job or reduce his hours of employment.

Perhaps the Department was confused because noncompliance can be imposed for being fired from a job when receiving FIP benefits for misconduct or absenteeism. See BEM 233A (May 1, 2015) p.4. No such provision is found in BEM 233B.

Thus, based upon the Department policy found in BEM 233B, Failure to Meet Employment Requirements: FAP, the Department improperly closed Claimant's FAP case and improperly sanctioned the Claimant for being fired. There is no such condition allowing for a sanction under that circumstance.

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 closed and sanctioned for one month, the Claimant's FAP case for failure to meet employment requirements.

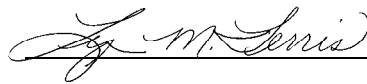
DECISION AND ORDER

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. The Department shall reinstate the Claimant's FAP case retroactive to August 1, 2015 and remove the sanction imposed for noncompliance with the FAP employment requirements.
2. The Department shall issue a supplement to the Claimant for any FAP benefits he is otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/7/2015**

Date Mailed: **8/7/2015**

LMF / hw

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

