

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-015827
Issue No.: PATH
Agency Case No.: [REDACTED]
Hearing Date: October 15, 2015
County: Washtenaw (District 20)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Following Petitioner'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, an in-person hearing¹ was held on [REDACTED], from Ypsilanti, Michigan. The Petitioner, [REDACTED], appeared on his own behalf. [REDACTED] sister, appeared as a witness for Petitioner. The Department was represented by [REDACTED], Employment and Training Program Coordinator; and [REDACTED], Refugee Cash Assistance Case Worker (RCA CW). [REDACTED], Case Manager Refugee Employment; and [REDACTED], Employment Program Manager, both from Jewish Family Services (JFS) appeared as witnesses for the Department. [REDACTED], Linguistica, provided interpretation services.

ISSUES

Did the Department properly close and sanction the Claimant's Refugee Cash Assistance (RCA) case for noncompliance with assigned employment and/or other self-sufficiency related activities?

Did the Department properly close the Claimant's Food Assistance Program (FAP) case due to the RCA noncompliance and sanction?

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 a recipient of RCA and FAP benefits.
2. Claimant was referred to JFS, a Refugee Contractor (RC).

¹ Claimant's RCA and FAP appeal was held in conjunction with 15-015826, the RCA and FAP appeal for Claimant's brother that was scheduled for the same date and time. The parties agreed to incorporate the hearing records for both cases by reference because the case actions were related.

3. On [REDACTED] JFS notified the Department that Claimant walked out on a job the previous day. (Department Exhibit D, pp. 5-6)
4. On [REDACTED], the Department mailed Claimant a Notice of Noncompliance (DHS-2444) based on refused employment. (Department Exhibit D, pp. 7-8)
5. On [REDACTED], a Notice of Case Action was issued to Claimant stating the RCA case would close for at least 3 months effective [REDACTED], due to an alleged noncompliance with employment and training requirements. This notice also stated that the FAP case would close effective [REDACTED], based on a failure to participate in employment related activity without good cause. (Department Exhibit D, pp. 9-12)
6. On [REDACTED], the Claimant filed a request for hearing contesting the Department's action.

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).

RCA

The Refugee Cash Assistance Program (RCA) was established pursuant to the Federal Refugee Act of 1980, P.L. 104-193, and 8 USC Sec 1522 (a)(9), (e), and Note (Sec. 501). The Department (formerly known as the Department of Human Services) administers RCA pursuant to 45 CFR 400, 45 CFR 401, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3601-.3631.

The RCA program is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of RCA engage in employment and self-sufficiency related activities so they can become self-supporting. Federal and state laws require each mandatory participant in the RCA group to participate in the employment-related activities provided through a Refugee Contractor (RC) unless temporarily deferred. RCA recipients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230C, (July 1, 2015), p. 1.

When a RCA Mandatory Participant (MP) fails without good cause to comply with an employment and/or self-sufficiency-related activity or refuses suitable employment, a member disqualification must be imposed. The refugee contractor works with the family to gain compliance and lift the penalty in the shortest period required. BEM 233C, (July 1, 2013), p. 1.

Both applicants and recipients are penalized for refusing suitable employment. BEM 233C, p. 1.

As a condition of eligibility, eligible group members who are MPs cannot refuse suitable employment up to 40 hours per week. BEM 233C, p. 2.

Refusing suitable employment means any of the following:

- Failing or refusing to appear for a job interview; see the exception in this item.
- Refusing a bona fide offer of employment or additional hours up to 40 hours per week, except for certain clients in post-secondary education. The employment may be on a shift; full or part time up to 40 hours per week; and temporary, seasonal or permanent.

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

- Voluntarily reducing hours or otherwise reducing earnings.
- Quitting a job.

Exception: This does not include quitting a seasonal job to return to an approved, self-initiated plan for education.

- Firing for misconduct or absenteeism (not for incompetence).

BEM 233C, p. 3.

Noncompliance with an employment and/or self-sufficiency-related activity includes failing or refusing to: comply with activities assigned to the MP on the Refugee Family Self-Sufficiency Plan (RFSSP) as created with the RC; participate in employment and/or self-sufficiency-related activities; and accept a job referral and/or offer of employment. BEM 233C, p. 2.

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. BEM 233C, p. 4.

Good cause includes the Department, the RC, or employer fails to make reasonable accommodations for the client's disability or the client's needs related to the disability of a child or spouse; and credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to the following: domestic violence, health or safety risk, religion, and homelessness. BEM 233C, p. 5.

An MP who fails without good cause to meet employment requirements by removing the person from the eligible group. The following automatic disqualifications periods are applied: for the first failure, a minimum of three months, after which the person must participate to regain eligibility; for the second or subsequent failure, a minimum of six months, after which the person must participate to regain eligibility. BEM 233C, p. 7.

The Department is to hold a triage appointment/phone conference to determine good cause prior to the negative action period. Good cause can be based on information already on file with the Department or the RC. If the client does not attend the triage meeting, determine good cause based on the information known at the time of determination. BEM 233C, p. 4.

On Monday [REDACTED], the RC made arrangements, including transportation, for Claimant to start work at a hotel in a laundry position the next day. (Department Exhibit F, p. 5.)

On Wednesday [REDACTED], the RC was notified that Claimant walked out on the job orientation and did not accept the job. (Department Exhibit F, p. 5) On [REDACTED], Claimant and her brother contacted the RC and stated that she did not want to work weekends because she wants to go to church. (Department Exhibit F, p. 5)

The triage meeting originally scheduled for [REDACTED], could not be held because no translator was available. (Department Exhibit F, p. 4) The triage meeting was held on [REDACTED]. Claimant reported she did not want to work on Saturday and Sunday citing religious reasons. It was noted that Claimant had not talked to JFS or employer about the ability to change her schedule. Claimant was asked if she would accept the job if she was allowed to have Sundays off for religious reasons. Claimant indicated she would not accept the job because she was not available until Tuesday as she was going on a trip that weekend. The Department did not find good cause. (Department Exhibit F, p. 4)

In part, the JFS witnesses noted that Claimant had not previously reported she did not want to work weekends. However, the JFS witnesses noted that the employer was willing to work out the issue with working on the weekends if Claimant would return to work.

Claimant and her brother's testimony indicated Claimant is alleging good cause based on not wanting to work weekends due to attending synagogue on Sundays and having time to socialize with friends after.

Claimant's brother asserted that JFS was aware of their religious issues and Sunday synagogue attendance. Claimant's brother noted that refugee status was based on religious status. Claimant's brother noted that on the JFS Transition Plan and Discharge Summary Plan dated [REDACTED], and [REDACTED], it was reported that Claimant attends church weekly. (Claimant Exhibit 3, pp. 1-2.) Claimant's brother testified he was told by the man at the hotel job that they would not have to work weekends, but when the woman showed them a copy of the schedule they were on for the weekend. Claimant's brother stated he told the woman they were not supposed to be on the schedule for the weekends but she indicated the schedule would not be changed.

Lastly Claimant and her brother indicated that while they are taking English classes, the language barrier may have also contributed to miscommunications and

misunderstandings. For example, Claimant would sign paperwork without understanding the documents.

Overall, the evidence supports the Department's determination that Claimant refused employment without good cause. The testimony of the JFS witness that Claimant received translation assistance was supported by their case record documentation. (Department Exhibit F, pp. 1-21) Claimant did not report work restrictions due to religious convictions on the Refugee Family Self-Sufficiency Plan dated [REDACTED]. (Department Exhibit E, p. 2) An [REDACTED], case note specifies that JFS met with Claimant using a Farsi interpreter when the Refugee Family Self-Sufficiency Plan was completed. (Department Exhibit F, p. 13) While attending church was noted on the JFS Transition Plan and Discharge Summary Plan dated [REDACTED], and [REDACTED], it was not clear that this would preclude working on the weekends. (Claimant Exhibit 3, pp. 1-2) There was insufficient evidence to establish a religious conflict with working Saturdays. Further, Claimant's brother indicated that after synagogue on Sundays is one of the few times they can socialize with friends. Socializing with friends is not a basis for good cause. Accordingly, the closure and sanction of the Claimant's RCA case based on her noncompliance with assigned employment and/or other self-sufficiency related activities is upheld.

FAP

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.

Process FAP using policy in BEM 233B when RCA is closed for noncompliance or refusing suitable employment. BEM 233C, p. 1.

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. BEM 233B, p. 1.

Disqualify a FAP group member for noncompliance when all the following exist: the client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance; the client did not comply with FIP/RCA employment requirements; the client is subject to a penalty on the FIP/RCA program; and the client is not deferred from FAP work requirements; and the client did not have good cause for the noncompliance. BEM 233B, p. 3.

In this case, Claimant was active for both FAP and RCA on the date of noncompliance; Claimant did not comply with RCA assigned employment and/or other self-sufficiency related activities; Claimant is subject to a penalty for RCA; the Claimant was not deferred from FAP work requirements; and good cause has not been established for

Claimant's non-compliance. Accordingly the determination to disqualify Claimant from the FAP group, resulting in closure of his FAP case is upheld.

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 closed and sanctioned the Claimant's RCA case based on his noncompliance with the assigned employment and/or other self-sufficiency related activities and when it closed Claimant's FAP case based on the RCA noncompliance and sanction.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

[REDACTED]

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:

