

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg No: 20101817
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 12, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing filed on August 12, 2009. After due notice, a telephone hearing was conducted on November 12, 2009. The Claimant appeared and testified. Ursula Barrett, FIM, appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 9/1/09.

FINDINGS OF FACT

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

1. The Claimant was an active FAP recipient.
2. Following the conversion to Bridges, Claimant's FAP benefits were calculated to be \$105.00 for the month of August and \$99.00 for the month of September per an 8/15/09 budget calculation.

3. The 8/15/09 FAP budget did not include a deduction for utilities paid by Claimant.
4. The Department acknowledged the failure to include the utilities, corrected the problems and supplemented Claimant's benefits up to \$200 for the months of September and October, 2009.
5. Claimant testified that she is contesting the calculation of FAP benefits from December, 2008.
6. Claimant produced a hearing request filed on August 26, 2008. Said hearing request does not reference food stamp benefits.
7. Claimant filed this appeal. The Department received the Claimant's Request for Hearing on August 19, 2009.

CONCLUSIONS OF LAW

The Food Assistance Program, formerly known as the Food Stamp ("FS") program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations ("CFR"). The Department of Human Services ("DHS"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. The department provides an administrative hearing to review the decision and determine its appropriateness. The client has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. If a client files an untimely

hearing request, program benefits continue at the current level. There are exceptions for FAP benefits only. FAP benefits must be restored to the former level if:

1. The delay in filing the request was for good cause (e.g., client hospitalized); or
2. The change was the result of a mass update and the issue being contested is that FAP eligibility or benefits were improperly computed **or** that federal law/regulation is being misapplied/misinterpreted.

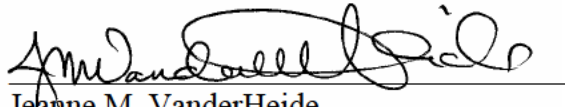
In the present case, the Department acknowledged that it did not include Claimant's utility deduction in the FAP budget. However, the Department has already corrected its actions and Claimant is not currently suffering any loss. Claimant did not introduce any evidence that would indicate a good cause for a delay in filing. Nor did Claimant introduce any facts that would invoke the second exception. Based upon the foregoing facts and relevant law, therefore, this hearing request is dismissed with prejudice.

Claimant indicated that she had ongoing problems with her previous case worker which resulted in her FAP benefits being lowered. Claimant also indicated that she had previously filed a hearing request on August 26, 2008 which has not been heard. The Administrative Law Judge acknowledges that a hearing request was received by the Department on 8/26/08, but it does not address FAP benefits, rather SER benefits. Said hearing has not been scheduled yet.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department has already corrected its error and Claimant is not suffering any loss of benefits covered in the current hearing request.

Accordingly, this hearing request is DISMISSED with prejudice.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/23/09

Date Mailed: 12/04/09

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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 was made, within 30 days of the receipt date of the rehearing decision.

JV/dj

cc:

