

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-21777
Issue No.: 3003/2001
Case No.: [REDACTED]
Hearing Date: February 14, 2011
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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. After due notice, a telephone hearing was held on February 14, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefits based on new employment by Claimant and an alleged failure by Claimant to report stopped employment.
2. Whether DHS properly terminated Claimant's Adult Medical Program (AMP) benefits based on new employment by Claimant and an alleged failure by Claimant to report stopped employment.

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 an ongoing FAP and AMP recipient.
2. Claimant received employment income from employment with [REDACTED] and reported this employment to DHS.
3. On 1/12/10, DHS received a report that Claimant began employment with [REDACTED].

4. In response to learning of Claimant's employment, DHS mailed two Verification of Employment forms to Claimant, one to verify information regarding Claimant's new employment, one to verify possible changes in Claimant's employment with [REDACTED]
5. Claimant timely returned the Verification of Employment concerning her employment with [REDACTED].
6. Claimant did not return the Verification of Employment in 1/2010 or 2/2010.
7. In 1/2010, DHS began budgeting Claimant's employment income with [REDACTED] while making no changes to Claimant's [REDACTED] employment income.
8. The additional employment income from Thrifty Flowers caused Claimant's FAP benefits to decrease to \$104/month effective 3/2010.
9. The additional employment income from [REDACTED] caused the termination of Claimant's AMP benefits due to excess income.
10. Claimant stopped her employment with [REDACTED] upon beginning employment with [REDACTED]
11. On 2/1/10, Claimant requested a hearing disputing the termination of AMP benefits and reduction in FAP benefits.
12. Subsequent to 2/1/10, DHS stopped budgeting Claimant's employment with [REDACTED] after DHS verified that the employment stopped.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 at 7. Changes must be reported within 10 days of receiving the first payment reflecting the change. *Id.*

In the present case, Claimant disputed a reduction in FAP benefits from \$200 in 2/2010 to \$104 in 3/2010. The cause of the reduction was an increase in employment income for Claimant. Claimant did not dispute that DHS properly began budgeting employment income for Claimant's new employment with [REDACTED]. Claimant disputed that DHS should have stopped budgeting employment income with [REDACTED].

Claimant testified that her employment with [REDACTED] stopped prior to 2/2010; DHS did not dispute Claimant's testimony. DHS testified that Claimant's employment with [REDACTED] may have stopped prior to 2/2010, however, Claimant failed to inform DHS of the employment stoppage.

Claimant credibly testified that she reported and verified employment stoppage with [REDACTED]. DHS conceded this point but contended that the reporting and verification occurred several weeks following the DHS action reducing Claimant's FAP benefits for 3/2010. Claimant was less certain about when she reported and verified the employment stoppage.

The administrative hearing occurred one year following Claimant's request for hearing so it is reasonable that Claimant would be unsure of exact dates. However, Claimant's testimony also lacked reference points about reporting. For example, Claimant could have testified that she was uncertain of the precise date she reported stopping employment at [REDACTED] but she could have been sure it was prior to requesting a hearing. Overall, Claimant's testimony lacked certainty about reporting stopped employment with [REDACTED] at the time that DHS reduced Claimant's FAP benefits.

The DHS specialist's testimony was very persuasive. The specialist recalled receiving a report indicating that Claimant had new employment with [REDACTED]. She recalled mailing Claimant two Verification of Employment documents, one for Claimant's new employment and one for Claimant's possible changed employment with [REDACTED]. The specialist's actions were sensible and thoughtful as Claimant's employment with [REDACTED] might have impacted her employment with [REDACTED]. Note that the DHS specialist's actions were not required by DHS regulations. The specialist also recalled not receiving any communications from Claimant or receiving the Verification of Employment concerning Claimant's employment with [REDACTED]. Thus, the DHS specialist had no reason to stop or amend the previously verified employment income from [REDACTED]. Overall, the testimony of the DHS specialist was very persuasive in its certainty.

The undersigned was also slightly concerned that DHS learned of Claimant's employment with [REDACTED] from a report rather than from Claimant. Claimant's

first pay from ██████████ was issued in 11/2009. The mailing date requesting ██████████ employment information occurred on 1/12/2010. Thus, approximately one-two months elapsed between the time Claimant's employment began and DHS began requesting information for the income. Though the lapse might have been the fault of the DHS specialist, based on how efficiently other DHS actions within the case occurred, it is more likely than not that the delay was caused by Claimant's failure to report rather than inaction by DHS. It is found that DHS properly continued to budget Claimant's income from ██████████ in reducing Claimant's FAP benefits for 3/2010 as Claimant failed to timely report any change to DHS concerning her employment with ██████████

The undersigned did not consider the specifics of the 3/2010 FAP budget (Exhibit 1) which reduced Claimant's FAP benefits. However, testimony was taken that the only change occurring from 2/2010 to 3/2010 was the addition of employment income. Claimant did not assert any other issues which would have impacted the 3/2010 FAP budget. It is found that DHS properly reduced Claimant's FAP benefits effective 3/2010.

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115) (a) (1) of the Social Security Act, and is administered by the Department of Human Services (formerly known as the Family Independence Agency) pursuant to MCL 400.10, *et seq.* Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The DHS termination of AMP benefits effective 3/2010 involved the same issue as the reduction of FAP benefits, whether DHS properly continued to budget Claimant's employment income with ██████████ based on Claimant's alleged failure to timely report the employment income stoppage. It has already been found that for purposes of the DHS action reducing Claimant's FAP benefits, DHS properly budgeted both of Claimant's employment incomes; the same finding equally applies to the termination of AMP benefits.

Income eligibility for AMP exists when the program group's countable monthly income does not exceed the program group's AMP income limit. BEM 640 at 3. DHS submitted a budget (Exhibit 2) showing the basis for the AMP benefit termination. AMP benefits were terminated because Claimant's countable net income exceeded the AMP income limit. It is found that DHS properly reduced Claimant's AMP benefits due to excess income by Claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that effective 3/2010; DHS properly reduced Claimant's FAP benefits to \$104/month and terminated Claimant's AMP benefits. The actions taken by DHS are AFFIRMED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/17/2011

Date Mailed: 2/17/2011

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.

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