

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.: 2010-26103
Issue No.: 3022
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 7, 2010
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 conducted from Detroit, Michigan on April 7, 2010. Claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), Meshawn Coleman, Specialist, appeared and testified.

ISSUE

Whether DHS correctly included employment income as part of a redetermined 3/2010 Food Assistance Program (FAP) benefit budget?

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP recipient.
2. Claimant's FAP benefit period was scheduled to end 2/28/10.
3. On 2/11/10, a telephone interview was held between Claimant and DHS.

4. Claimant indicated on her Redetermination form (DHS-1010) that she was living with [REDACTED].
5. Claimant also reported that [REDACTED] had zero income.
6. Claimant previously reported [REDACTED] household presence in 8/2009 but DHS did not add him as a FAP group member.
7. DHS did not add [REDACTED] as a FAP group member until after the 2/11/10 redetermination interview.
8. When DHS performed clearances on FAP group members, it was discovered that [REDACTED] had employment income from 10/09-12/09. Exhibit 2.
9. DHS budgeted [REDACTED] income and left Claimant a telephone message regarding the issue.
10. Including [REDACTED] income, DHS found that Claimant's household income exceeded the allowable amount of gross income and denied FAP benefits for 3/2010 due to excess income.
11. Claimant contends that [REDACTED] had no income since 12/2009 and that DHS over-budgeted the household income.
12. Claimant submitted a hearing request on 3/4/10 regarding closure of FAP.

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 MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are

found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS must periodically redetermine an individual's eligibility for active TOA. BAM 210 at 1. "TOA" stands for types of assistance. The redetermination process includes thorough review of all eligibility factors. *Id.*

Under "Conducting the Interview", BAM 210 mandates DHS to perform various tasks. Most relevant to the present case, DHS is required to "Review the verifications and reconcile discrepancies." *Id.* at 8. Claimant reported that [REDACTED] had zero income at the FAP interview. Based on a search of their databases, DHS discovered [REDACTED] had income from 10/2009-12/2009.

DHS reasonably made the assumption that [REDACTED] income was ongoing and that Claimant would not dispute this. Based on this assumption, Claimant had excess income for FAP benefits.

Though DHS left a message for Claimant about [REDACTED] income, such communication is not sufficient to resolve a discrepancy. According to the above policy, DHS should have attempted to reconcile the discrepancy at the interview, not the day before the certification ended. Had DHS identified the discrepancy on the date of the interview, Claimant would have had an appropriate time to object to budgeting of the income and to verify that the income stopped.

BAM 210 also reads, "Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time." In the present case, Claimant was not given any opportunity to submit a verification of stopped income on behalf of [REDACTED]. Per policy, Claimant should have been given 10 days from the date of

request to verify [REDACTED] income stopped; this policy applies even if the 10 days run beyond a certification period.

It is not known whether Claimant originally reported [REDACTED] income when he was reported as a household member. If Claimant did not, this may have contributed to DHS being unable to identify during the interview that his income was a factor in redetermination. DHS still has the potential to recoup FAP benefits incorrectly issued.

It is accepted that DHS specialists have an impossible responsibility based on their caseload size. Expecting specialists to always meet policy requirements is utterly unrealistic. However, the unfairness of the responsibility given to specialists must not be a factor in interpreting and applying policy in fairness to Claimants.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly closed Claimant's FAP case. It is ordered that DHS shall request verifications from Claimant to resolve the income discrepancy and subsequently evaluate Claimant's eligibility for FAP beginning 3/1/10.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/12/2010

Date Mailed: 4/12/2010

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.

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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.

CG/jlg

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