

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.: 2010-31951
Issue No.: 1015/3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 3, 2010
Oakland County DHS (4)

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 Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 3, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED] Specialist, appeared and testified.

ISSUE

1. Whether DHS properly supplemented Claimant's Family Assistance Program benefits from 11/2009-2/2010 due to DHS' failure to timely process a change in Claimant's employment income.
2. Whether DHS properly supplemented Claimant's Family Independence Program benefits pursuant to administrative order.

FINDINGS OF FACT

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

1. Per agreement of the parties, Claimant is entitled to \$526/month in FAP benefits from 11/2009-2/2010.
2. Due to a failure by DHS to properly process an employment income change, Claimant received only \$188/month in FAP benefits from 12/2009-2/2010.
3. Claimant received \$526 in FAP benefits for 11/2009.
4. DHS supplemented Claimant's FAP benefits for \$318 in 2/2010.
5. An administrative hearing was held on 1/14/10 concerning a 3/16/09 FIP benefits application by Claimant.
6. The corresponding decision ordered DHS to supplement Claimant for FIP benefits from Claimant's 3/16/09 application date.
7. Claimant and DHS agree that Claimant has been adequately supplemented FIP benefits in all months except for 4/2009-7/2009.
8. Claimant and DHS agree that Claimant is entitled to \$246/benefit period in FIP benefits for each FIP pay period where Claimant is eligible.
9. DHS has not yet supplemented Claimant for FIP benefits from 4/2009-7/2009.
10. Claimant submitted a hearing request on 4/27/10 disputing her FAP issuances from 11/2009-2/2010 based on a change in employment and FIP benefit issuances from 4/2009-7/2009 based on the administrative order.

CONCLUSIONS OF LAW

Food Assistance Program

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).

In the present case, it was not in dispute that Claimant timely reported that her employment ended in 10/2009. Claimant and DHS agree that Claimant is entitled to \$526/month in FAP benefits beginning 11/2009. Claimant agrees that DHS properly updated her ongoing FAP benefits beginning 3/2010. Thus, the months in dispute are 11/2009-2/2010.

Based on submitted Benefits Summary Inquiry screens, Claimant received \$526 in FAP benefits for 11/2009. Though Claimant testified she only received \$188 in FAP benefits in 11/2009, it is found that Claimant received \$526 in FAP benefits for 11/2009 and is not entitled to a supplement.

Claimant also received \$188/month as ongoing FAP benefits for 12/2009-2/2010. Claimant should have received a FAP supplement of \$338 for each month. DHS established that Claimant already received a \$318 supplement for 2/2010. It is found that Claimant is entitled to a FAP supplement of \$338 for 12/2009, \$338 for 1/2010 and \$20 for 2/2010.

Family Independence Program

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program

effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant contends she has not yet received a FIP benefits supplement from 4/09-7/09 pursuant to an administrative decision and order dated 3/23/10. DHS was ordered, "To reprocess Claimant's application dated 3/16/09 and supplement her for any loss in benefits."

DHS has ten days from the administrative decision mailing date to comply with the order. BAM 600 at 31. DHS did not deny that they failed to meet their compliance deadline.

It was also not disputed that Claimant is entitled to \$492/month in FIP benefits from 5/2009-7/2009. DHS has yet to supplement Claimant for those months despite the administrative order. Thus, it is found that Claimant is entitled to a supplement of \$492 for each of three months (5/09-7/09) for a total of \$1476 in FIP benefits.

There are two issues concerning Claimant's 4/2009 FIP supplement. The first issue is whether DHS should supplement Claimant for the entire month of 4/2009 or just the second half. The second issue is whether DHS already supplemented Claimant for the second half of 4/2009.

Provided the FIP group meets all FIP eligibility requirements, DHS should begin FIP benefits in the pay period in which the application becomes 30 days old. BAM 115 at 17. If the application becomes 30 days old and the group has not met eligibility requirements, then DHS should begin FIP benefits in the pay period when eligibility requirements are met. *Id.* The 30th day following Claimant's application date is 4/15/09. If Claimant is found to meet FIP eligibility requirements, Claimant's initial FIP benefit should be for the 4/1/09-4/15/09 FIP benefit pay period.

DHS never alleged that Claimant was ineligible for FIP benefits in 4/2009. Though Claimant did not attend JET, the administrative law judge of the administrative decision dated

3/23/10 found that Claimant did not receive notice of her JET appointment. The undersigned is not inclined to find that Claimant is not entitled to receive FIP benefits from 4/1/10-4/15/10 solely due to a failure to attend JET when it was found that Claimant did not receive notice of the JET appointment. It is found that Claimant is entitled to a FIP supplement for 4/1/09-4/15/09.

There was also a dispute as to whether DHS already supplemented Claimant for the second half of 4/2009. DHS contends that a 4/22/10 Benefit Summary Inquiry indicating that a “pending” \$246 supplement was issued for 4/2010 is actually a supplement for 4/2009 and should not have to be reissued. DHS was given several weeks after the hearing to submit verification that the \$246 supplement was for 4/2009. DHS submitted no evidence supporting this claim.

On a Benefits Summary Inquiry dated 6/3/10, Claimant was properly issued two supplements of \$246 for benefit month 4/2010. There is no record of an extra supplement for this month. It is found that Claimant is also owed \$246 in FIP benefits for the FIP pay period of 4/16/09-4/30/09

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 failed to adequately supplement Claimant for FIP and FAP benefits. It is ordered that DHS shall supplement Claimant the following benefit amounts:

1. FAP benefits: \$338 for 12/2009, \$338 for 1/2010 and \$20 for 2/2010.

2. FIP benefits: \$492 for 4/2009, \$492 for 5/2009, \$492 for 6/2009 and \$492 for 7/2009.

Christian Gardocki

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

Date Signed: 6/21/2010

Date Mailed: 6/21/2010

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 90 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.

CG/jlg

cc:

