

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.: 201046086
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 2, 2010
Office: Wayne County DHS (55)

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 September 2, 2010. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether Claimant reported a decrease in employment income in 6/2010 which would have increased Claimant's FAP benefits.

FINDINGS OF FACT

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

1. On 4/9/10, Claimant applied for FAP benefits.
2. Claimant is part of a three person FAP group including Claimant, her spouse and her minor child.
3. Claimant's spouse is disabled and receives \$674/month in Supplemental Security Income (SSI) from the Social Security Administration and an additional \$42 every three months in SSI from the State of Michigan.
4. At the time of Claimant's application for FAP benefits, Claimant received \$751/month in employment income.

5. On an unspecified date, DHS determined that Claimant was eligible for FAP benefits of \$327/month effective 5/1/10;
6. Claimant's FAP benefits were pro-rated for 4/2010 (based on an application date of the 9th) and \$239 in FAP benefits were issued to Claimant.
7. Claimant's spouse reported on an unspecified date in 6/2010 that her employment income temporarily stopped.
8. DHS failed to adjust Claimant's FAP benefits based on the employment income change.
9. Claimant requested a hearing on 7/15/10 disputing the failure by DHS to adjust Claimant's FAP benefits following the reporting of Claimant's reduced employment; Claimant also submitted the hearing request disputing the DHS determination of Claimant's FAP benefit issuance of \$327/month but Claimant now indicates that issue is not in dispute.

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).

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 at 8. This policy applies only to changes affecting FAP benefits.

In the present case, Claimant contended that her spouse reported a reduction in Claimant's employment in 6/2010. Claimant's spouse was unable to specify a precise date that he reported. DHS contended that Claimant did not report any change. Whether Claimant's reporting date occurred prior to the last 10 days of 6/2010, or after would determine whether Claimant's FAP benefits should be affected for 7/2010 or 8/2010. The undersigned is not inclined to give Claimant the benefit of an early 6/2010 reporting date without any supporting evidence. It is found that Claimant did not report an employment reduction prior to the final ten days of 6/2010.

It was not in dispute that Claimant reported the reduction in employment via the hearing request. Though it was buried within the hearing request and somewhat difficult to read, Claimant did write, "I am out of job and I am not getting unemployment." In fairness to DHS, a hearing request is not a typical way to report income changes. Nevertheless, a hearing request can be used to report information to DHS

Claimant's hearing request was submitted to DHS on 7/15/10. Based on the above stated policy, DHS would have had ten days to request verification of the stopped employment and to process the change for the benefit month that occurred ten days after the change was reported, if the change was verified timely. DHS did not seek verification of the employment change. It is found that DHS erred by not requesting verification of Claimant's employment change within 10 days following 7/15/10.

The undersigned does not need to address whether Claimant did or did not report the employment change in 6/2010. It has been found that Claimant did not establish that the change was not reported prior to the final ten days of 6/2010. Based on this finding, if Claimant reported the employment reduction in the final ten days of 6/2010, then DHS would have affected Claimant's FAP benefits for 8/2010, the same effective month as the 7/15/10 reporting date.

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 failed to process Claimant's reported employment change to affect Claimant's 8/2010 FAP benefits. It is ordered that DHS request verification of Claimant's stopped employment, in compliance with DHS regulations, and to accordingly adjust Claimant's 8/2010 FAP benefits upon return of the verification.

/s/



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

Date Signed: September 15, 2010

Date Mailed: September 15, 2010

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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.

CG/hw

cc:

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