

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.: 201047555
Issue No.: 3012/3002/3023
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 9, 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 9, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], [REDACTED], appeared and testified.

ISSUES

1. Whether DHS failed to timely process Claimant's reported and verified income reduction.
2. Whether DHS properly calculated Claimant's FAP benefit amount beginning 6/2010.
3. Whether DHS properly failed to act on Claimant's request for food lost from a utility shut-off due to non-payment.

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 receiving \$16/month in FAP benefits.
2. Claimant is an individual over 60 years of age.
3. Claimant receives \$907/month in Retirement, Survivors, Disability Insurance (RSDI) income.

4. Claimant is obligated to pay annual property taxes of \$490.02.
5. After 4/23/10 but before the end of 4/2010, Claimant called DHS to report that she would no longer be employed.
6. On 7/2/10 DHS requested verification of Claimant's stopped employment from Claimant; the due date to verify the stopped employment is not known.
7. Claimant returned a Verification of Employment to DHS on 7/13/10; the document verified that Claimant's employment stopped.
8. Based on Claimant's stopped employment verification, DHS adjusted Claimant's FAP benefits to \$29/month beginning 8/2010.
9. DHS supplemented Claimant for \$13 in 7/2010 making Claimant's 7/2010 FAP issuance equal to \$29.
10. On an unspecified date, Claimant lost an unspecified amount of food due to an electric shut-off caused by Claimant's non-payment.
11. Claimant requested restoration of FAP benefits for the food that was spoiled from her utility shut-off but was never given any supplement of FAP benefits.
12. On 7/23/10, Claimant requested a hearing concerning her FAP benefits; specifically Claimant requests a FAP benefit adjustment earlier than 8/2010 concerning her reduced employment, recalculation of her FAP benefit amount and restoration of FAP benefits for food she lost from an electric service shut-off.

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. If necessary verification is not returned by the due date, the case should be scheduled for closure. *Id* at 9. If verification is returned late, but before case closure, the benefit increase must

affect no later than the first allotment issued 10 days after the date the verification was returned.

In the present case, it was not disputed that Claimant reported that her income stopped in 4/2010. Claimant did not know the precise date she reported the change but believed it to be after 4/23/10, the date of her final employment check. Despite Claimant's 4/2010 reporting date, DHS did not request verification of Claimant's stopped employment until 7/2010.

DHS specialists must act on a change reported by means other than a tape match within 10 days after becoming aware of the change. BAM 220 at 5. In the present case, DHS took over 50 days before acting on Claimant's reported change.

DHS did not contend that Claimant missed her verification due date when her verification of stopped employment was submitted on 7/13/10. Though DHS did not submit a Verification Checklist indicating the date Claimant's verifications were due, a Verification of Employment was submitted showing a 7/2/10 mailing date. Clients have 10 calendar days to provide requested verifications. BAM 130 at 5. Claimant faxed the Verification of Employment on 7/13/10. It is plausible that Claimant was given a 7/12/10 due date to verify that her employment stopped, missed the deadline by one day. Applying these circumstances to policy, it could be argued that Claimant did not timely verify her stopped employment and therefore DHS is only required to affect the FAP benefit month that occurred ten days after the date Claimant submitted the verification rather than the benefit month that occurs 10 days following the reporting date. The undersigned rejects this interpretation for two reasons.

First, DHS did not contend that Claimant untimely verified her employment income reduction. Since DHS did not make an issue of it, the undersigned is not inclined to make one out of it. Secondly, DHS specialists must act on a change reported by means other than a tape match within 10 days after they are aware of the change. It would be highly unjust to deny a client's benefit increase for several months because the client was one day late on a verification but DHS was several months late in requesting the verification. Such an interpretation in the present case would mean that Claimant would miss two months of a FAP benefit supplement because DHS was two months tardy in requesting verification. If DHS had acted within their ten day standard of promptness and Claimant was only one day late in verifying the reduced earnings, Claimant's tardiness would not have affected her FAP benefit eligibility. It is found that DHS should have affected Claimant's FAP benefits for 6/2010 and 7/2010 based on Claimant's reported and verified reduction in employment income.

It was determined that Claimant received \$16/month in FAP benefits and should have received \$29 in FAP benefits had her employment reduction been processed. Claimant contends that she was not supplemented for the FAP benefit months of 6/2010 and

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7/2010. DHS verified that Claimant received \$29 of FAP benefits in 7/2010. Exhibit 2. It is found that Claimant is entitled to a \$13 FAP benefit supplement for 6/2010.

Claimant also contended that she was entitled to more than \$29/month in FAP benefits based on her employment reduction. Claimant did not have a specific reason why she was entitled to more than \$29/month. BEM 556 outlines the proper procedures for calculating FAP benefits.

Based on a Social Security Administration cross-match, DHS verified that Claimant receives monthly gross RSDI income payments of \$907.50. Claimant contended she only received \$904/month in RSDI. Claimant did not verify her contention. It is found that Claimant receives \$907.00 (dropping cents) in RSDI payments.

Claimant's one person FAP group receives a standard deduction of \$132. RFT 255. The standard deduction is subtracted from Claimant's countable unearned income to calculate the FAP group's adjusted gross income. The adjusted gross income amount is found to be \$775.00.

Claimant pays annual property taxes of \$490.02. This amount is divided by 12 to calculate Claimant's monthly obligation. Claimant was issued the maximum utility credit allowed by policy, \$555. The monthly property tax obligation is added to the utility credit to calculate Claimant's total shelter expense of \$595, the same as calculated by DHS.

DHS calculates an excess shelter expense based on Claimant's shelter expenses. The excess shelter expense is calculated by taking Claimant's shelter expense (\$595) and subtracting half of Claimant's adjusted gross income (\$775). Claimant's excess shelter expense is found to be \$207 (dropping cents), the same as calculated by DHS.

Claimant's excess shelter cost (\$207) is subtracted from Claimant's adjusted gross income (\$775) to determine Claimant's net income. In the present case, Claimant's net income is found to be \$568. Per RFT 260 the correct amount of FAP benefits for a FAP benefit group of one person with a monthly net income of \$568 is \$29/month, the same as calculated by DHS. It is found that DHS properly calculated Claimant's FAP benefits to be \$29/month.

FAP benefit recipients may be issued a replacement of food that has been destroyed in a domestic misfortune or disaster and reported timely. BAM 502 at 1. Domestic misfortunes or disasters include events which occur through no fault of the client, such as fires, floods or electrical outages. *Id.*

In the present case, Claimant lost food due to an electrical shut-off. The electric shut-off occurred due to Claimant's failure to pay her electricity bill. Such a circumstance would

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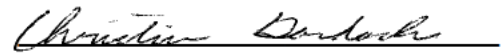
be the fault of the client and not one covered by the food replacement policy. It is found that DHS properly declined to issue food replacement for Claimant.

DECISION AND ORDER

The actions taken by DHS are partially AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly calculated Claimant's FAP benefit amount to be \$29/month. It is further found that Claimant is not entitled to restoration of lost food due to a utility shut-off caused by Claimant's non-payment.

The actions taken by DHS are partially REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to timely adjust Claimant's FAP benefits following Claimant's reported decrease in income. It is ordered that DHS supplement Claimant for \$13 in FAP benefits for 6/2010.

/s/



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

Date Signed: September 22, 2010

Date Mailed: September 22, 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 mailing 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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