

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: 20107122
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 7, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 on January 7, 2010. The Claimant appeared and testified. Titicia Rosen, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly processed the Claimant's Food Assistance ("FAP") benefit increase.

FINDINGS OF FACT

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

1. The Claimant was an active FAP recipient.
2. Claimant was fired from her employment on [REDACTED].

3. Claimant testified that on the day that she was fired, she first attempted to contact the Department to report the change in employment. Despite additional attempts, Claimant was only able to leave voicemails and never received a return phone call.
4. On October 26, 2009, Claimant finally contacted the Department supervisor who then sent out a wage verification.
5. The wage verification was returned on 10/29/09.
6. The FAP re-determination was effected on 11/12/09 and Claimant's benefits increased effective December, 2009.
7. The Claimant filed a request for a hearing on November 16, 2009.

CONCLUSIONS OF LAW

The Food Assistance Program, formerly known as the Food Stamp ("FS") 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 ("DHS"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM"). Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. A supplemental issuance may be necessary in some cases. If verification is returned late, the increase must affect the month after verification is returned. BEM 220, p. 5.

In this case, the Claimant attempted to report the change immediately after she lost her job. The non response by the Department caused an 11 day delay. In addition, after receiving the appropriate verification, Claimant returned it within 3 days. This was also before the end of the month. However, the Department took another 15 days to process the change. Had the change been processed with 10 days of Claimant first reporting it, Claimant would have received an increase in benefits for the month of November.

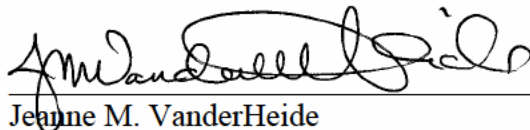
Accordingly the Department's delay caused Claimant to miss out on increased benefits for the month of November, 2009. Therefore, the Department's determination to increase FAP benefits effective December, 2009 is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, determines that the Department improperly increased Claimant's FAP benefits effective December, 2009 rather than November, 2009.

Accordingly, it is ORDERED:

1. The Department's FAP action effective 12/09 is REVERSED.
2. The Department shall effectuate the 12/09 FAP increase as of November 1, 2009 and supplement the Claimant for any lost benefits she was otherwise entitled to receive.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 01/19/10

Date Mailed: 01/20/10

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.

JV/dj

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