

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: 2010-8580
Issue No: 3002;3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 4, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on January 4, 2010.

ISSUE

Were the claimant's FAP benefits supplemented to the appropriate time period?

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 a FAP recipient in Wayne County.
- (2) Claimant was receiving \$16 in FAP benefits in June, 2009.
- (3) This amount was based upon claimant's UCB benefit amount.
- (4) Claimant's UCB benefits ended on June 13, 2009.

- (5) This cessation of benefits was not noticed by the Department until the benefit month of August, 2009.
- (6) Claimant's FAP benefits were raised to \$200 beginning in August, 2009.
- (7) This UCB benefit change would have been noticed by the Department immediately under normal circumstances.
- (8) Claimant requested a hearing on September 17, 2009, arguing that FAP benefits should have been awarded for the benefit months of June and July.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 or department) 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 Bridges Reference Manual (BRM).

In FAP cases, 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. BEM 505.

The Department testified under oath that claimant's UCB benefit stoppage would have been normally caught by their system immediately, and benefits would have been increased immediately. The Administrative Law Judge will take this testimony as the determining factor in this case. While claimant probably should have reported the change in his income, the fact remains that the Department admitted that, had computer error not occurred, claimant would not

have had to report. As such, the undersigned will hold that claimant's benefits should have increased on the policy required date at the end of his UCB benefits.

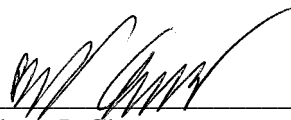
Claimant argued that his benefits should have increased for the month of June. However, the evidence of record shows that claimant's UCB benefits stopped on June 13, 2009. Income decreases that result in benefit increases are effective no later than the first allotment 10 days after the change would have (or as in the current case, should have) been reported. In this case, the first allotment 10 days after the income change would be the allotment for the July benefit month. Therefore, while claimant was not eligible for a benefit increase in June, he was eligible for a benefit increase in July.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant was eligible for an FAP benefit increase in the month of July, 2009.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

The Department is ORDERED to issue supplemental FAP benefits to claimant for the month of July, 2009. Eligibility for this month shall be determined based upon factors that the Department used in benefit calculations for the month of August, 2009 onward.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/01/10

Date Mailed: 03/05/10

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.

RJC/dj

cc:

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