

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.: 201017114

Issue No.: 3002

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 11, 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 March 11, 2010. The Claimant appeared and testified. [REDACTED]

[REDACTED] JET Case Manager 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 gave birth to her son on July 14, 2009.

3. Claimant testified that she came in to the local office in mid September, 2009 and, after signing on the log in sheet, presented verification of her son's birth to the Department.
4. The Department does not dispute that Claimant was in the local district office in September, 2009.
5. Claimant testified that shortly thereafter, her son's Medicaid was activated.
6. Claimant's case underwent redetermination on December 1, 2010.
7. Claimant's FAP benefits were increased to \$529.00 per month to reflect the addition of her son, effective March 1, 2009.
8. The Claimant filed a request for a hearing on January 22, 2010.

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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

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. A client has 90 calendar days from the date of the

written notice of case action to request a hearing. For FAP only, a client may request a hearing disputing the current level of benefits at any time within the benefit period. BAM 600, p. 4.

In this case, the Administrative Law Judge finds Claimant's testimony that she reported the birth of her son to the Department in September, 2009 credible. Once she reported the birth and provided verification of same to the Department, Claimant's benefits should have increased within 10 days or effective October 1, 2009. Accordingly the Department's delay caused Claimant to miss out on increased benefits for the months of October, 2009 through February, 2010.

However, Claimant did not file a hearing request until 1/22/10 following the redetermination that occurred in December, 2009. As of January, 2001, Claimant was in a new FAP benefit period. Therefore, the jurisdiction of this Administrative Law Judge is limited by BAM 600 to 90 days prior to the Claimant's hearing request.

According, the Department's determination to increase FAP benefits effective March, 1, 2010 is REVERSED and Claimant is entitled to increased FAP benefits from November, 1, 2009.

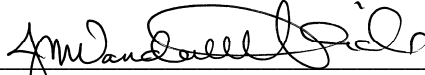
DECISION AND ORDER

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 October, 2009.

Accordingly it is Ordered:

1. The Department's FAP action effective March, 2009 is REVERSED.

2. The Department shall effectuate the 3/09 FAP increase of \$526.00 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: April 1, 2010

Date Mailed: April 1, 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 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/hw

cc:

