

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.: 2010-30592
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 6, 2010
Wayne County DHS (82)

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 conducted from Detroit, Michigan on May 6, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether Claimant is entitled to an increase from \$16 in Food Assistance Program (FAP) benefits due to Claimant's belief that she should receive more 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. Claimant is an ongoing FAP recipient.

2. Claimant received Unemployment Compensation (UC) benefits of \$774/2 weeks since 8/2009; \$50 of which is payment from the [REDACTED]. Exhibit 2.
3. Claimant received \$200/month in FAP benefits since 8/2009. Exhibit 3.
4. DHS began budgeting Claimant's UC income in 2/2010.
5. The budgeting of Claimant's UC income resulted in a FAP benefit reduction to \$16/month.
6. Claimant submitted a hearing request on 4/7/10 regarding the 2/2010 reduction of FAP benefits because Claimant believes she should receive more FAP benefits.

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).

Claimant does not dispute the numbers used in calculating her FAP amount. There is also no dispute that DHS followed the procedures in BEM 220 to reduce Claimant's FAP benefits in 2/2010. Claimant simply believes that \$16 is an insufficient amount of FAP benefits.

Claimant's argument in part relies on the delay by DHS in budgeting her UC income. Claimant received a windfall of FAP benefits for several months because DHS failed to timely include Claimant's UC income. Thus, from 8/2009-1/2010, Claimant received FAP benefits

based on a household of \$0 income when she was actually receiving \$774/2 weeks in UC income. DHS policy does not allow Claimant to continue to receive benefits to which she is not entitled simply because DHS mistakenly issued benefits in the past. Claimant may even be responsible for repayment of FAP benefits if DHS pursues recoupment of those benefits. It is found that delay by DHS in correcting Claimant's FAP benefit calculation is not a basis to continue overissuance of the incorrect benefit amount.

DHS and the undersigned cannot subjectively determine the amount of Claimant's FAP benefits. FAP benefits are calculated based on Claimant's income and expenses and applying the calculations found in BEM 556. Claimant did not contend that DHS either over-budgeted her income or under-budgeted her expenses. It is found that \$16 was the correct FAP issuance for months 2/2010-4/2010.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly reduced Claimant's FAP benefits to \$16/month beginning 2/2010.



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

Date Signed: 5/18/2010

Date Mailed: 5/18/2010

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.

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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/jlg

cc:

