

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.: 201043731  
Issue No.: 3015  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: August 16, 2010  
Wayne County DHS (15)

**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 August 16, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

**ISSUE**

Whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits effective 7/1/10 due to excess-income.

**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.
2. In 6/2010, Claimant's eligibility for FAP benefits were based on a FAP group size of two persons, Claimant and his disabled child.
3. On 5/27/10, Claimant submitted an Assistance Application (Exhibit 5) stating that he and his previously separated spouse were living together.
4. Claimant also reported to DHS that his spouse was employed as a nurse. Exhibit 5.

5. Claimant submitted check stubs verifying the following gross payments and pay dates: \$2277.97 on 4/23/10 and \$2277.92 in 5/7/10. Exhibit 4.
6. DHS adjusted Claimant's FAP benefits for 7/2010 to include Claimant's spouse as a group member and Claimant's spouse's employment income as group member income.
7. Based on the changes, DHS found that Claimant's FAP group had excess income for FAP benefits and terminated the FAP benefits effective 7/2010. Exhibit 2.
8. Claimant requested a hearing on 6/21/10 disputing the termination of his FAP benefits.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (FAP) (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 CML 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).

For non-income changes, DHS specialists are directed to complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs ten days after the change is reported. The benefit month cannot be earlier than the month of the change. BAM 220 at 8.

Note that DHS policy regarding FAP group member adds can be found in BEM 212 and BEM 550. That policy was not considered because it does not cover group member additions that cause a FAP benefit decrease.

In the present case, Claimant reported a FAP group member change on 5/27/10; specifically, Claimant reported living with his previously separated spouse. DHS properly considered the verified income of the spouse in recalculating Claimant's FAP eligibility. Based on the addition of Claimant's spouse and her income, DHS properly determined that Claimant was ineligible for FAP benefits beginning 7/2010.

Claimant stated that he and his spouse are on and off and are once again separated. Claimant did not report this change until after the termination of his FAP benefits. The proper remedy for Claimant is to reapply for FAP benefits. It is found that DHS properly terminated Claimant's eligibility for FAP benefits due to excess-income.

**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 terminated Claimant's FAP benefits effective 7/1/10 due to excess income.

/s/



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

Date Signed: August 26, 2010

Date Mailed: August 26, 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.

CG/ hw

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