

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.: 201044331
Issue No.: 3000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 18, 2010
Office: Wayne County DHS (43)

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 18, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether Claimant's FAP benefits were properly terminated due to a failure to verify starting employment 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. On an unspecified date, Claimant reported starting new employment.
3. DHS mailed Claimant a Verification Checklist (DHS-3503) (Exhibit 2) on 5/8/10 requesting verification of Claimant's employment; Claimant was given until 5/18/10 to return the verification.
4. By 5/19/10, Claimant had not responded to the DHS-3503 requesting employment verification.

5. On 5/19/10, DHS mailed Claimant a Notice of Case Action (Exhibit 3) advising Claimant that her FAP benefits would close in 6/2010 due to a failure to verify her employment.
6. On an unspecified date, the United States Post Office returned the DHS-3503 and Notice of Case Action to DHS for being undeliverable.
7. Claimant committed no actions contributing to the DHS-3503 or Notice of Case Action not getting delivered.
8. Claimant requested a hearing on 7/15/10 disputing the termination of her FAP benefits.
9. DHS agreed that Claimant did not receive the DHS-3503 or subsequent Notice of Case Action and agreed to reinstate Claimant's FAP benefits back to 7/1/10.

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 (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).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 at 7. Income changes must be reported within 10 days of receiving the first payment reflecting the change. *Id.* For income increases that result in a benefit decrease, action must be taken and notice issued to the client within the standard of promptness (FAP - 10 calendar days). BEM 505 at 9. DHS specialists are directed to verify changes that result in a benefit increase or when change information is unclear, inconsistent or questionable. *Id.* at 11.

In the present case, it was not disputed that Claimant began employment (an income increase) and timely reported the change to DHS. In response, DHS mailed Claimant a request to verify employment (Exhibit 2) via a Verification Checklist (DHS-3503).

Generally, DHS policy requires income to be verified. Income increases that occur in mid-benefit period do not have to be verified unless the reporting is unclear, inconsistent or questionable BEM 505 at 11. DHS did not present any evidence indicating that

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Claimant's reporting of her new employment was unclear, questionable or inconsistent. Thus, DHS did not have to verify Claimant's income increase.

DHS subsequently terminated Claimant's FAP benefits based on Claimant's failure to verify the income increase. DHS stipulated that Claimant was not required to verify the income increase. It is found that DHS improperly closed Claimant's FAP benefits.

For good measure, the evidence also showed that Claimant did not receive the verification request (Exhibit 2). DHS testified that the DHS-3503 and subsequently mailed Notice of Case Action (Exhibit 3) were returned to DHS as undeliverable to Claimant's mailing address. Claimant credibly testified that her address had not changed and that the delivery service was at fault. The undersigned is not inclined to hold Claimant accountable for failing to verify information when she had no knowledge of the verification request and did not contribute to the delivery problem. Based on the lack of need to verify the income change and Claimant's faultlessness in not verifying the information, DHS agreed that Claimant's FAP benefits should be reinstated beginning with the first month following FAP closure, 7/2010.

DECISION AND ORDER

The actions taken by DHS are REVERSED. It is ordered, based on agreement of the parties, that DHS shall reinstate Claimant's FAP benefits beginning with benefit month 7/2010

/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.

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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.

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