

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: 2011-18094

Issue No: 3008

Case No: [REDACTED]

Hearing Date:

March 2, 2011

Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 received by the Department on February 3, 2011. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 2, 2011. The Claimant's spouse, [REDACTED] appeared and testified on behalf of the Claimant as she was ill. Ken Swiatkowski, FIM and Akisha Drain, ES appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case due to group income exceeding the gross income limit.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material facts:

- 1) The Claimant was an ongoing recipient of Food Assistance (FAP).
- 2) The Claimant's FAP case closed on February 1, 2011. A notice of case action was sent to the Claimant on December 31, 2010 advising the Claimant that the FAP case would close.

- 3) The Claimant's FAP case closed as a result of a new FAP budget calculation which included both unemployment compensation benefits received by the Claimant's husband and earned income causing the Claimant's case to close due to excess gross income.
- 4) The Claimant testified that he called and left his caseworker a message on December 22, 2010 that he had lost his job.
- 5) The Claimant lost his job on [REDACTED].
- 6) The Claimant's caseworker testified that she returns her phone messages and did not recall receiving a message about the Claimant losing his job.
- 7) The Claimant began receiving unemployment benefits of \$362 per week, which amount was confirmed by the Claimant. The Claimant did not report the receipt of unemployment benefits by her husband.
- 8) The Claimant's wife also lost her job but did not report the loss of her employment as she was waiting to see if a new company was going to acquire the company where she was working.
- 9) The Claimant next went to the Taylor (Pennsylvania office) some time in January 2011. The Claimant said the office was closed.
- 10) The Department did not close the Pennsylvania office until January 27, 2011, and left the new address where applicants or current recipients of benefits could go to get assistance.
- 11) The Department's closure of the Claimant's FAP case was correct based upon the income information it had available to it regarding the Claimant's group's earned and unearned income.

- 12) The Claimant requested a hearing on February 3, 2011, protesting the closure of her FAP case. The Claimant's hearing request was received by the Department on February 3, 2011.

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) 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 (RFT).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change.

Income reporting requirements are limited to the following:

Earned income:

Starting or stopping employment.

Changing employers.

Change in rate of pay.

Change in work hours of more than five hours per week that is expected to continue for more than one month.

Unearned income:

Starting or stopping a source of unearned income.

Change in gross monthly income of more than \$50 since the last reported change.

BAM 105, page 7

In this matter the Claimant did not report the loss of her employment to the Department. The Claimant's spouse did not report the receipt of unemployment

benefits to the Department and testified that he left only one message to advise the Department of the loss of his job. Under these facts it is found that the Claimant and her spouse did not satisfy the reporting requirements of BAM 105 to report all stopping of employment and starting of unearned income, in this case unemployment compensation benefits.

Given the lack of reporting with regard to several of the changes in the FAP group's income it is determined based upon the record as a whole, and the testimony of the witnesses that the department acted appropriately in closing the Claimant's FAP case due to excess gross income. It is further determined that the Claimant did not report the changes to the Department as required by BAM 105 and thus the department correctly closed the Claimant's FAP case as the changes were not reported and the loss of employment by both the Claimant and her Spouse could not be verified because the department was unaware of these changes.

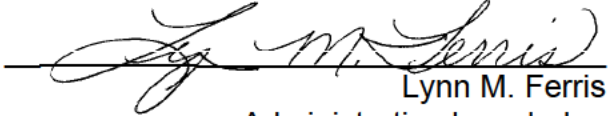
The Department is required to verify employment and income at application and when a change is reported. If the client fails to fully report these changes the Department must close the Claimant's case or deny the application for failure to verify the requested information or as in this case, failure to report the changes. BEM 554, p. 11.

Because the changes in employment and receipt of unemployment were not reported, the Department had no knowledge that it need to obtain verification of loss of employment, or that it should include unemployment income in the FAP budget until the Department's computer system interface automatically recalculated the FAP budget causing the case to close.

The claimant is encouraged to reapply for FAP benefits. The undersigned finds that the Department properly closed the claimant's FAP case due to the fact that the Claimant did not report the changes in income to the Department to insure the FAP benefits continued.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly closed the Claimant's FAP case due to excess income and its decision in that regard is AFFIRMED.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 03/04/11

Date Mailed: 03/08/11

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.

LMF/dj

cc:

