

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. 201120907
Issue No. 3002
Case No. [REDACTED]
Hearing Date: March 22, 2011
District: Wayne County DHS (17)

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 March 22, 2011. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED] and [REDACTED] appeared and testified.

ISSUE

Whether DHS properly processed a reported decrease in income by Claimant to affect Claimant's Food Assistance Program (FAP) benefit issuance for 11/2010.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. Claimant received \$197 in FAP benefits for benefit month 9/2010 and \$211 in FAP benefits for 10/2010 and 11/2010.
3. On approximately 10/9/10, Claimant reported a decrease in his employment income to his DHS specialist.

4. Prior to the end of 10/2010, Claimant's specialist transferred to a different DHS office prior to taking any action on Claimant's reported income decrease.
5. On an unspecified date in 11/2010, Claimant reported the income decrease to his current specialist who processed the change to affect Claimant's FAP benefit issuance for 12/2010.
6. Claimant received \$346 in FAP benefits for 12/2010 after DHS processed the income change.
7. On 11/22/10, Claimant requested a hearing disputing the alleged failure by DHS to apply Claimant's reported change to affect his 9/2010-11/2010 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 pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RTM). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

For FAP benefits, income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 at 8. DHS is not process a change for a month earlier than the month the change occurred. *Id.* A supplement may be necessary in some cases. *Id.*

In the present case, Claimant testified that he reported a decrease in employment income to DHS around early to middle 10/2010. Claimant's witness tended to corroborate that an employment income change was reported to DHS on or around 10/9/10. DHS could not provide any testimony rebutting Claimant's testimony because Claimant's specialist (at the time) transferred to another DHS office and failed to participate in the administrative hearing. Claimant and his witnesses testified credibly concerning the reporting date change. It is found that Claimant reported an income change to DHS on approximately 10/9/10.

Based on the above stated policy, following Claimant's report of a decrease in income, DHS should have requested verification of the income decrease. If Claimant's verification was submitted timely, then Claimant would have been entitled to a FAP benefit change effective 11/2010 (Claimant's first FAP benefit allotment following 10 days after his reporting date).

It is known that Claimant's current specialist processed an income decrease to affect Claimant's 12/2010 FAP benefits (based on an 11/5/10 reporting date). In processing the change, DHS used Claimant's income verifications from 10/17/10 and 10/31/10 to affect Claimant's 12/2010 FAP benefits. Claimant would not have likely (though it's possible) submitted verification of his income from 10/17/10 and 10/31/10 in support of his 10/9/10 reporting date as those dates had not yet occurred.

To prospect non-child support income, DHS is to use past income to prospect income for the future unless changes are expected. BEM 505 at 4. Specifically, DHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month *Id.*

When an income amount changes, DHS is to adjust the amount (s) being budgeted for future pay periods. *Id.* at 5. If an earned income rate of pay changes, but hours are expected to remain the same, DHS is to use the past hours worked times the new rate of pay to determine the amount to budget for future pay periods. *Id.* If there is a change in expected hours, but no change in the rate of pay, DHS is to use the expected hours times the rate of pay to determine the amount to budget per pay period. *Id.* If payments in the new amount have been received and they are accurate reflections of the future income, DHS is to use them in the budget for future months. *Id.*


The undersigned is tempted to allow DHS to request verification of Claimant's 30 days of income from 10/9/10 prior to evaluating Claimant's 10/9/10 reported income decrease; ultimately, this seems unnecessary. DHS already received verification of Claimant's income change for 10/17/10 and 10/31/10. Though these income verifications probably would not have been submitted for a 10/9/10 report date, the verifications are appropriate to affect a change for FAP benefit month 11/2010. It is found that DHS is to supplement Claimant for 11/2010 based on Claimant's already reported income verifications for 10/17/10 and 10/31/10. It is also found that Claimant is not entitled to a FAP benefit supplement for 9/2010 or 10/2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly did not affect Claimant's FAP benefits for 9/2010 or 10/2010 based on a 10/9/10 date of reporting an income decrease. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to process a reported income decrease by Claimant on 10/9/10 to affect Claimant's 11/2010 FAP benefits. It is ordered that DHS use Claimant's verified income from 10/17/10 and 10/31/10 to redetermine Claimant's

FAP benefits for 11/2010 and that DHS shall supplement Claimant for any FAP benefits not received in 11/2010. The actions taken by DHS are PARTIALLY REVERSED.


Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 04/01/11

Date Mailed: 04/06/11

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.

CG/dj

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