

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 21481
Issue No. 3002
Case No. [REDACTED]
Load No. March 22, 2011
Hearing Date: Macomb County DHS 12

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. After due notice, a telephone hearing was held on March 22, 2011. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department is required to supplement the Claimant's FAP benefits for the month of February 2011 as a result of a change in income reported January 28, 2011.

FINDINGS OF FACT

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

1. The Claimant was an ongoing recipient of FAP benefits and reported to the Department that her unemployment benefits had ended on January 28, 2011.
2. The Claimant was not requested to provide verification. No verification checklist was issued requesting verification of unemployment benefit termination.
3. The Claimant applied for Cash Assistance (FIP) on February 7, 2010, and also provided a letter from the Unemployment Agency indicating her unemployment benefits had ended.
4. On February 7, 2011, the Department issued a Notice of Case Action and issued an increase in the Claimant's FAP benefits for March 1, 2011. Exhibit 1.

5. The Claimant filed a request for hearing on February 15, 2011, protesting the failure of the Department to provide an increase in FAP benefits in February 2011 rather than March 2011. The Department received the hearing request on February 22, 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 (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).

In the present case, the Claimant seeks to receive a supplement for FAP benefits for the month of February 2011. It is undisputed that the Claimant reported a change in FAP benefits on January 28, 2011, advising the Department that her unemployment benefits had ended. The Department must act on a change within 10 days after the Department is made aware of the change. BAM 220.

In this case, the Department had until February 7, 2011 to process the change and did so on February 7, 2011 by Notice of Case Action. The FAP increase went into effect in March 1, 2011.

The change in FAP benefits due to a decrease in income are to go into effect for the first allotment 10 days after the change is reported. In order to determine if the Claimant is entitled to receive a supplement for February, the date of the Claimant's allotment issuance must be determined.

FAP

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. Do **not** process a change for a month earlier than the month the change occurred. A supplement may be necessary in some cases. BEM 505, page 9.

Increases in FAP benefits due to non income changes are acted upon differently and go into effect the benefit month that occurs ten days after the change is reported. BAM 220, Page 5.

The Department issued an L letter, L-11-06-CW on January 7, 2011 which advised that starting January 2011 the Department changed the dates food assistance recipients will

receive their FAP benefits. The date clients receive their benefits depends on the last digit of their recipient ID number. A schedule was provided with the L letter with issuance dates based on the last digit of the recipient ID number. The evidence presented at the hearing did not establish the Claimant's issuance date and thus it cannot be determined when the Claimant in this case receives her FAP benefit allotment. If the issuance date is after January 7, 2011, then the Claimant is entitled to receive the increase in FAP benefits in February 2011.

Based upon the foregoing analysis, and the fact that the Claimant's issuance date is not known, the Department's decision issuing an increase in FAP benefits March 1, 2011 is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not confirm the actual issuance date that the Claimant receives FAP benefits. Therefore, the Department's Notice of Case Action issued February 7, 2011, granting the Claimant's FAP benefit increase for March 1, 2011, is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall determine the Claimant's FAP benefit issuance date in accordance with L Letter, L-11-06-CW issued on January 7, 2011, and if required based upon the Claimant's FAP allotment issuance date, the Department shall issue a supplement to the Claimant for the FAP benefits for February 2011.



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

Date Signed: 03/30/11

Date Mailed: 03/30/11

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:

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