STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARINGS SYSTEM ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES



Reg. No. Issue No. Case No. Hearing Date: 201132881 3000 June 6, 2011

Wayne County DHS (41)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Admini strative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the c laimant's request for a hearing. After due notice, a telephone hearing was held on June 6, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), **Specialist**, appeared and testified.

ISSUE

Whether DHS and Claim ant properly agreed that DHS would supplement Claimant for Food Assistance Program (FAP) benefits not re ceived since 4/2010 as a result of DH S inexplicably not including Claimant's ch ild in determining Cl aimant's F AP benefit issuances.

FINDINGS OF FACT

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

- 1. Claimant was an ongoing FAP benefit recipient.
- 2. Claimant gave birth to a child in 3/2010.
- 3. DHS failed to factor Cla imant's child in Claimant's FAP benefit issuances after 3/2010.
- 4. On 4/16/11, Claimant requested a hearing t o dispute the failure of DHS to factor Claimant's child in the FAP benefit issuances after 3/2010.

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5. DHS and Claimant reached an agreement that DHS would supplement Claimant for FAP benefits since 4/2010 to correct the error of not timely inc luding Claimant's child in Claimant's FAP benefit issuances.

CONCLUSIONS OF LAW

The Food Assistanc e Program (formerly known as the Food Stamp Program) is established by the Food Stam p Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). DHS (formerly known as the Fam ily 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 (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The undersigned will refer to the DHS regulations in effect as of 4/2010, the month of the DHS decision which Claimant is dis puting. Current DHS manuals may be found online at the following URL: <u>http://www.mfia.state.mi.us/olmweb/ex/html/</u>.

BAM 220 directs DHS specialis ts to BEM 550 to determine the effect of a group member addition to a FAP benefit group. A me mber addition that increases benefits is effective the month after it is reported. BEM 550 at 3.

In the present case, Claimant requested a hearing to dis pute a failure by DHS to increase her FAP benefits following the birth of a child in 3/2010. DHS did not attempt to justify the failure to factor the child in Claimant's FAP benefit determination and agreed to add the child effective 4/2010 and to supple ment Claimant for any FAP benefits not received as a result of the D HS error. Claimant agreed to this resolution. As the agreement between Claimant and DHS appears to comply with DHS regulation, the undersigned accepts the agreement betw een Claim ant and DHS as an appropriate resolution to Claimant's dispute.

DECISION AND ORDER

The Administrative Law Judge, based upon t he above findings of fact and conclusion s of law, finds that DHS improperly deter mined Claimant's FAP benefits beginning 4/2010. It is ordered that DHS:

- redetermine Claimant's FAP benefit eligibil ity by adding Claimant's child (bor n in 3/2010) to the FAP benefit determination for 4/2010 and future months; and
- supplement Claimant for any FAP benefits not received as a res ult of the DHS error.

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The actions taken by DHS are REVERSED.

Christin Dorloch

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

Date Signed: June 15, 2011

Date Mailed: June 15, 2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party wit hin 30 days of the ma iling date of this Decision and Order. Administrative Hear ings will n ot order a rehearing o r reconsideration on the Department's mo tion where the final decis ion 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 of the rehearing decision.

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