

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-39766
Issue No. 3003
Case No. [REDACTED]
Hearing Date: July 28, 2011
Wayne (17)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37, which govern the administrative hearing and appeal process, and Claimant's request for a hearing. After due notice, a telephone hearing was held in Detroit on July 28, 2011. The Claimant appeared and testified. [REDACTED] appeared and testified as Claimant's Authorized Hearing Representative. [REDACTED] Eligibility Specialist, appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS calculated Claimant's Food Assistance Program (FAP) benefit allotment in accordance with DHS policy and procedure?

FINDINGS OF FACT

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

1. On or about August 1, 2009, DHS began to provide FAP benefits to Claimant.
2. On November 1, 2010, Claimant began receiving Unemployment Insurance (UI) benefits, and his FAP benefit amount was reduced accordingly.
3. On February 25, 2011, Claimant advised DHS that the Federal economic stimulus benefit he received as supplementary UI income, expired, and his UI benefit amount was reduced to \$362 per week. Claimant enclosed his current

bank statement with the letter, showing the direct deposit amount of \$362 per week from the Unemployment Insurance Agency.

4. On or before April 8, 2011, DHS obtained records from the Unemployment Insurance Agency indicating that Claimant was still receiving a Federal supplemental benefit.
5. DHS failed to provide Claimant with a reasonable opportunity to resolve the discrepancy between his bank statement and the information from the Unemployment Agency.
6. On April 8, 2011, DHS sent Claimant a Notice of Case Action, stating that Claimant's FAP benefits would be reduced from \$69 to \$47 effective May 1, 2011.
7. On June 20, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the United States Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3001-3015. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The administrative manuals are the policies and procedures DHS officially created for its own use. While the DHS manuals are not laws created by the U. S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now, in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

I conclude that the applicable DHS policy in this case is BAM 130, "Verification and Collateral Contacts." BAM 130 states that when there is a discrepancy between Claimant's information and information from another source, the Claimant must be given a reasonable opportunity to resolve the discrepancy. BAM 130, p. 6.

In this case DHS had Claimant's bank statement on file. The bank statement contained information that contradicted the information provided by the UI Agency. However, DHS failed to inform Claimant of the discrepancy.

I find and conclude that DHS' failure to provide Claimant with a reasonable opportunity to resolve the discrepancy is a violation of BAM 130. I find and decide that in this case DHS had a duty under BAM 130 to inform Claimant of the discrepancy so that he could investigate the discrepancy to see if there was an error in the UI records at the UI Agency.

In conclusion, based on the findings of fact and conclusions of law above, I decide and determine that DHS is REVERSED. DHS shall reprocess Claimant's May 1, 2011 FAP reduction, including providing to Claimant the right to resolve any discrepancy.

Also, at the hearing in this case Claimant raised four issues unrelated to the May 1, 2011 reduction of his FAP benefits. They are:

1. Whether DHS on April 8, 2011 contacted Claimant by telephone for a Redetermination Interview?
2. Whether DHS caused a delay in the processing of Claimant's Hearing Request of June 20, 2011?
3. Whether DHS executed the Administrative Law Judge's Decision and Order of March 24, 2010 in Claimant's case?
4. Whether Claimant may receive a duplicate FAP "Bridge" card for the use of a member of his FAP group?

At the hearing, I dismissed the first two issues, as they did not affect Claimant's benefits and I have no jurisdiction to hear them. With regard to the third issue, enforcement of the March 24, 2010, Order, I must dismiss this issue as no hearing request has been filed regarding the issue and I have no jurisdiction to consider it. Fourth, regarding a duplicate Bridge card, this issue was resolved at the hearing by the Specialist herself, and need not be addressed by the Administrative Law Judge. I decide and determine therefore that all four of these issues shall be DISMISSED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS is REVERSED. The Department shall take the following measures:

1. Provide Claimant with an opportunity to resolve the discrepancy between the UI Agency records and his bank records to determine if UI erred by continuing to

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include the stimulus money in Claimant's records, or, if another error has occurred.

2. Provide Claimant with any and all supplements to his FAP benefits necessary to restore him to the benefit level to which he is entitled.



Jan Leventer
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: August 1, 2011

Date Mailed: August 1, 2011

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.

JL/cl

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