

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-46203
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: August 29, 2011
DHS County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 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 on August 29, 2011, in Detroit, MI. Claimant appeared and testified at the hearing. [REDACTED]

[REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS calculated Claimant's Food Assistance Program (FAP) benefits for June 2011 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. In 2011, Claimant received FAP benefits from DHS.
2. On May 6, 2011, Claimant was terminated from her employment.
3. On May 27, 2011, Claimant reported to DHS that she lost her job on May 6, 2011.
4. On June 6, 2011, DHS gave Claimant an extension of time until June 15, 2011, in which to provide verification of her loss of employment.

5. On June 13, 2011, Claimant provided DHS with a wage statement from her former employer, stating that she was terminated on May 6, 2011.
6. On June 16, 2011, DHS issued a Notice of Case Action telling Claimant her FAP benefits would be increased to \$363 effective June 1, 2011, and to \$526 effective July 1, 2011.
7. On July 15, 2011, Claimant filed a Notice of Hearing Request 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. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The DHS manuals contain the policies and procedures DHS officially created for its own use. While the DHS policies and procedures are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. The manuals must be consulted in order to see what policies apply in this case. After setting forth what the applicable policies are, an analysis as to how they apply to the facts of this case will be presented.

BAM 220, "Case Actions," and BEM 505, "Prospective Budgeting/Income Change Processing," are the applicable manual Items which govern this case. BAM 220 states that in regard to standards of promptness, late verification of a change which will result in an increase in FAP benefits can only go into effect in the month after the verification is returned. BAM 220, p. 5.

However, in addition, BEM 505 provides that increased FAP benefits based on loss of income "*must be effective*" within ten days of the change report if verification is returned in a timely fashion. In this case, DHS itself gave Claimant an extension and Claimant responded in a timely fashion. DHS cannot claim in this situation that Claimant's verification was untimely when she met DHS' extension requirements. Accordingly, BEM 505 is found to be the applicable DHS manual Item, and DHS is REVERSED in this case.

It is found in this case that BEM 505 overrides the standard of promptness in BAM 220 because of the remedial nature behind the human services program. Thus, when a person loses a job, they need FAP benefits immediately, i.e., within ten days of the job

loss, and BEM 505 creates an exceptional provision to ameliorate the loss of a job. BAM 220, on the other hand, is a more general provision intended to provide overall guidance in managing changes that result in FAP increases. Because it is more specific, and because the language of BEM 505 uses the word "must," it is decided that BEM 505 is the policy that shall be applied in this case.

In conclusion, based on all of the findings of fact and conclusions of law, it is decided and determined that DHS is REVERSED in this case. DHS shall provide Claimant with a retroactive supplement for June 2011 based on her actual income in May 2011.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, states that DHS is REVERSED. IT IS ORDERED that DHS shall:

1. Initiate procedures to recalculate Claimant's June, 2011 FAP using Claimant's actual income from May 2011;
2. Initiate procedures to provide Claimant with supplemental retroactive FAP benefits for June 2011 necessary to restore her to the benefit level to which she is entitled.

All steps shall be taken in accordance with DHS policy and procedure.



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

Date Signed: August 31, 2011

Date Mailed: August 31, 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.

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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/pf

cc:

