

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-46823
Issue No. 3003
Case No. [REDACTED]
Hearing Date: September 21, 2011
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Sterling Heights, Michigan on Wednesday, September 21, 2011. The Claimant appeared and testified. The Claimant was represented by [REDACTED]. [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly reduced the Claimant's Food Assistance ("FAP") benefits effective August 1, 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 is a FAP recipient.
2. On June 15, 2011, the Claimant reported a change in employment. (Exhibit 7)
3. On this same date, the Claimant submitted verification regarding his new employer (including paystubs) and a statement from the prior employer confirming the employment had ended. (Exhibits 1 – 3)
4. On June 17, 2011, the Department sent a Verification Checklist, along with a Verification of Employment, to the Claimant regarding a third employer. (Exhibit 8)

5. The Verifications were due June 27, 2011.
6. The Verifications were not received so the Department calculated the Claimant's FAP allotment using income from the both employers. (Exhibit 6)
7. As a result of the earnings, the Claimant's FAP benefits were reduced, effective August 1, 2011 to \$312.00.
8. On June 28, 2011, the Department notified the Claimant of the FAP reduction. (Exhibit 4)
9. On July 22, 2011, the Department received the Claimant's timely written request for hearing. (Exhibit 5)

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. The Department of Human Services, formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq.* and Michigan Administrative Code Rules 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500. Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Client's are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. BAM 130. Verifications are considered timely if received by the due date. BAM 130. For FAP purposes, a change report (by means other than a tape match) must be acted on within 10 days. BAM 220.

A timely hearing request date is the last date on which a client can request a hearing and have benefits continue or restored pending the hearing. BAM 220. It is always the day before the negative action effective date. BAM 220.

In this case, the Claimant reported a change in employment and submitted a statement confirming that one employment had ended and another had started. The Claimant also submitted proof of income from the new employer. In processing the change, prior records indicated that the Claimant received income from a third employer. The

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Department attempted to verify whether the Claimant still received income from the third employer through a verification checklist and a verification of employment. Pursuant to policy, the verification(s) were due in 10 days (June 27, 2011). The information was not received so the Department calculated the Claimant's FAP allotment based on the best available information and included income from both the new employer and the third employer. As a result, the Claimant's benefits were reduced to \$312.00 effective August 1, 2011.

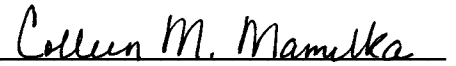
The Department timely notified the Claimant of the reduction and although a timely hearing request was received, the negative action was not deleted. As a result, the Claimant's FAP benefits were reduced. That being stated, the error is harmless in that the benefits were properly reduced. Under these facts, the Department established it acted in accordance with Department policy when it reduced the Claimant's FAP allotment based on the best available information at the time of the calculation. Accordingly, the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department established it acted in accordance with Department policy when it reduced the Claimant's FAP benefits effective August 1, 2011.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.



Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 22, 2011

Date Mailed: September 22, 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

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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.

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cc:

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