

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201126495
Issue No.: 3004; 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: April 25, 2011
DHS County: Wayne

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on April 25, 2011. Claimant appeared and testified. [REDACTED] and [REDACTED] Assistance Payments Worker, appeared on behalf of the Department of Human Services (Department or DHS).

ISSUE

Was the Department correct in decreasing Claimant's Food Assistance Program (FAP) benefits due to failure to cooperate with the Department?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FAP.
2. On December 16, 2010, Claimant notified the Department in writing of a decrease in income.
3. On January 12, 2011, the Department issued a verification checklist to Claimant, requesting employment verification.

4. Claimant attempted to contact the Department for further instructions regarding the January 12, 2011 verification checklist.
5. The Department decreased Claimant's FAP benefits effective February 1, 2011.
6. Claimant requested a hearing, protesting the decrease in benefits.

CONCLUSIONS OF LAW

FAP 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 administers the FAP program pursuant to MC L 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 Program Reference Manual (PRM.).

Timely action (within 10 days) **must** be taken on **all** client-reported changes which result in a FAP increase. BAM 200, p.3.

Clients must cooperate with the local DHS office in obtaining verification for determining initial and ongoing eligibility. BAM 105, 130. The questionable information might be from the client or a third party. *Id.* The Department can use documents, collateral contacts or home calls to verify information. *Id.* The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide the information should be extended at least once. BAM 130. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130.

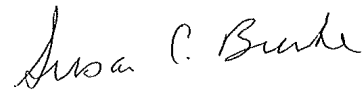
In the present case, on December 16, 2010, Claimant notified the Department in writing of a decrease in income. The Department issued a verification checklist on January 12, 2011, requesting that Claimant verify employment information. Claimant testified credibly that she had previously submitted employment verification, and that she attempted to contact the Department for further instructions, at first on her own and then via the Food Assistance Hotline. The Department does not deny that the Department did not return Claimant's calls; Claimant's worker had a death in her family. When the Department did not receive the requested verification within the timeframe requested, the correct information was not entered into the system and Claimant's FAP benefits were decreased, effective February 1, 2011.

I find that Claimant did not fail to cooperate, as she provided information to the Department to the best of her ability and understanding. BAM 130. In addition, the

Department was incorrect in not acting within ten days of Claimant's December 16, 2010 report of decrease of income, which likely would have resulted in a FAP increase. See BAM 200, p.3. Therefore, the Department was incorrect in decreasing Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's decision to not act in a timely manner on Claimant's reported changes and to decrease Claimant's FAP benefits effective February 1, 2011 was incorrect and, therefore, it is ORDERED that its decision is REVERSED. It is further ORDERED that the Department shall recalculate Claimant's FAP benefits, with the re-processing date of December 16, 2010, and, if Claimant is otherwise eligible, any missed or increased payments shall be made in the form of a supplement.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 4, 2011

Date Mailed: May 4, 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 of the rehearing decision.

SCB/hw

cc:



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