

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-27419
Issue No: 3002

[REDACTED]

May 11, 2011
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on [REDACTED]. After due notice, a telephone hearing was held on [REDACTED]. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly determine Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

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

1. On March 8, 2011, the department mailed Claimant a New Hire Employment Report based on a hit from the Internal Revenue Service that Claimant's wife was employed. (Hearing Summary).
2. Claimant returned the New Hire Employment Report with the requested paystubs to the department on March 16, 2011. (Hearing Summary).
3. The department mailed Claimant a Notice of Case Action on March 18, 2011, notifying Claimant that on processing his wife's new employment - form, Claimant's FAP benefit was [REDACTED] for March 1, 2011 through March 31, 2011 and [REDACTED] from April 1, 2011 through November 30, 2011. The Notice also informed Claimant that he was now a Simplified Reporter. (Department Exhibits 5-7).

4. Claimant submitted a hearing request on April 4, 2011, protesting the amount of his FAP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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 (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 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 (BRM).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

In this case, Claimant is only contesting the sanction of [REDACTED] the department withheld from Claimant's March FAP benefit amount. The department explained that because Claimant failed to timely report his wife's new employment within 10 days of her starting work, they sanctioned Claimant's March FAP benefits, according to BAM 200. The department explained that as a Change Reporter, Claimant had to report the change in income within 10 days or be sanctioned. Claimant testified that he thought he was a Simplified Reporter, but either way, the sanction was an extreme hardship on him.

The Administrative Law Judge reviewed BAM 200, the departmental policy covering Food Assistance Simplified Reporting as directed, despite Claimant being a Change Reporter. An examination of BAM 200 revealed no mention of FAP sanctions. The only

two policies regarding the sanctioning of a FAP recipient is covered in BAM 230B and BAM 233B, and they instruct the department to disqualify non-deferred adults who were working when the person:

- Voluntarily quits a job of 30 hours or more per week without good cause, or
- Voluntarily reduces hours of employment below 30 hours per week without good cause, or
- Is fired without good cause from a job for misconduct or absenteeism (i.e. not for incompetence). Misconduct sufficient to warrant firing includes any action by a worker that is harmful to the interest of the employer, and is done intentionally or in disregard of the employer's interest, or is due to gross negligence. It includes but is not limited to drug or alcohol influence at work, physical violence, and theft or willful destruction of property connected with the individual's work.

During the time period under review for this hearing, Claimant was not required to meet employment requirements for FAP, so BAM 230B and BAM 233B do not apply. The Administrative Law Judge finds that, based on the lack of basis in policy BAM 200 as presented during the hearing, the department improperly sanctioned Claimant's March 2011 FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act in accordance with policy in sanctioning Claimant's FAP March benefits. Therefore, the department's actions are REVERSED.

The department shall return the [REDACTED] FAP benefit Claimant was entitled to receive for March 2011.

It is SO ORDERED.

_____/s/_____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: ____5/13/11_____

Date Mailed: ____5/13/11_____

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 mailing 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.

[REDACTED]