

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20112813
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 17, 2010
Office: Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 telephone hearing was held on November 17, 2010. The claimant appeared and testified; [REDACTED] and [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly failed to redetermine Claimant's FAP benefits due to Claimant's failure to verify employment income, which grossed Claimant less than \$30/three months.

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 FAP recipient.
2. Claimant's FAP benefits were scheduled to be redetermined by 8/31/2010 subject to returning a Semi-Annual Contact Report (SACR) (Exhibit 2) and supporting verifications.
3. Claimant returned the SACR on 7/30/10.
4. Claimant's SACR failed to indicate that Claimant received employment income from doing piece-work at a developmental facility.

5. Claimant's specialist was in the midst of processing Claimant's SACR when he noticed that Bridges, the DHS database, was budgeting \$5/month in employment income for Claimant.
6. As a result of Claimant's failure to provide employment information, DHS did not process Claimant's redetermination and allowed Claimant's FAP benefits to expire on 8/31/10
7. On 10/14/2010, Claimant requested a hearing disputing the termination of FAP benefits.

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 (CFR). The Department of Human Services (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

DHS must periodically redetermine an individual's eligibility for benefit programs. BAM 210 at 1. A complete redetermination is required at least every 12 months. *Id.* FAP groups with countable earnings and a 12-month benefit period must have a semi-annual contact. *Id.* at 6. The semi-annual mid-certification contact must be completed and results certified in Bridges by the last day of the sixth month of the benefit period to effect benefits no later than the seventh month. The contact is met by receipt of a completed DHS-1046 (SACR) and required verifications. *Id.* at 7. If the client fails to return a complete SACR by the last day of the sixth month, Bridges will automatically close the case. *Id.* at 8.

In the present case, there was initial dispute about whether Claimant timely submitted a SACR. DHS conceded that Claimant did so on 7/30/10. What was an issue was whether Claimant was also required to supply verification of income for her piece-work employment.

Countable income must be verified at redetermination for all programs except Healthy Kids. BEM 500 at 9. Employment income is countable income. BEM 501 at 5. Based on the aforementioned policy, DHS would appear to have correctly expected verification of Claimant's employment income.

Inconsequential income means income that is unpredictable, irregular, and has no effect on continuing need. BEM 500 at 6. DHS is to not enter inconsequential income in Bridges if the amount received during a calendar quarter is \$30 or less. *Id.*

DHS testified that Claimant's employment income was budgeted as \$5/month. Claimant's witness confirmed that Claimant's twice per month checks were typically between \$2 to \$5. Accepting the DHS figure as accurate, Claimant's piece-work employment income translated to approximately \$15/quarter.

██████████ testified that Claimant usually worked two times per week and that the income stopped in 7/2010. As stated above, Claimant received the income twice per month.

The undersigned is inclined to find that Claimant's piece-work employment income was inconsequential income. There was testimonial evidence that Claimant's income amounts varied and that claimant did not always receive the income; this testimony helps establish the irregular and unpredictable requirements of inconsequential income. More importantly, it was not disputed that the income did not exceed the inconsequential income amount requirements. It is found that Claimant's employment income was inconsequential income and was appropriately not to be budgeted. As Claimant's employment income was found to be non-countable, DHS would have no reason to require verification of the income. Accordingly, DHS erred in failing to process Claimant's redetermination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly required verification of Claimant's inconsequential employment income. It is ordered that DHS recertify Claimant's FAP benefits effective 9/1/2010 and to disregard Claimant's inconsequential employment income. The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: December 2, 2010

Date Mailed: December 2, 2010

20112813/CG

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.

CG/hw

cc:

