

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201130049
Issue No. 1017
Case No. [REDACTED]
Hearing Date: May 16, 2011
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 May 16, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], representative from Michigan Works Association (MWA) appeared and testified.

ISSUE

Whether DHS properly included employment income in determining Claimant's eligibility for Family Independence Program (FIP) benefits effective 4/2011.

FINDINGS OF FACT

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

1. Claimant was an ongoing FIP benefit recipient.
2. Claimant had ongoing employment as a home help care worker for an individual.
3. Claimant began participation with Jobs, Education and Training (JET) on 2/14/11.
4. Shortly after her JET attendance, Claimant advised JET that she was employed.
5. As of 2/2011, Claimant performed the home help care employment for several months but had not received any income for the employment due to some unspecified problem with a third party.

6. If Claimant received payments for the home help care employment, Claimant would receive \$8/hour for the time she spent working, which averaged around 40 hours per week.
7. JET failed to verify whether Claimant's employment income was ongoing or held up due the problems with the third party.
8. JET reported the income to DHS as if it was ongoing income.
9. On an unspecified date, DHS reduced Claimant's FAP and FAP benefits after budgeting Claimant's employment income as ongoing income in the FIP and FAP benefit determination effective 4/2011
10. On 4/5/11, Claimant requested a hearing to dispute the inclusion of employment income she had not received in determining her FIP and FAP benefit eligibility.

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). DHS (formerly known as the Family Independence Agency) administers FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* DHS administers FIP pursuant to MCL 400.10, *et seq.* and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

In the present case, Claimant disputed a DHS action which resulted in a reduction of her ongoing FIP and FAP benefits. Claimant's primary complaint was that DHS budgeted employment income which Claimant had not received.

For FIP benefits, income decreases that result in a benefit increase must affect the month after the month the change is reported or occurred, whichever is earlier, provided the change is reported timely. BEM 505 at 8. For FAP benefits, income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. *Id.*

There is no dispute that in 2/2011, Claimant reported to JET that she was working full-time as a home help care worker for an individual. The Michigan Works Agency (MWA) that administered JET verified an income for Claimant based on a wage of \$7.40/hour at 40 hours per week. JET communicated this finding to DHS who, in turn, adversely affected Claimant's FIP and FAP benefits. The primary issue is whether DHS should have budgeted the employment income.

Claimant stated that her employment involved providing various home help care services for an individual. Claimant stated that she had performed the service since 8/2010. Claimant also stated that from 8/2010 through the date of the hearing, she had yet to receive any monies for her time.

According to Claimant, she would eventually be compensated by a third party agency that had not completed the process of approving payments for Claimant's time. The undersigned has some difficulty in finding that Claimant would have worked approximately nine months without receiving any compensation. Claimant responded that she was confident she would be paid and it was just a matter of waiting for the third party to complete the approval process for the payments.

Though Claimant's employment circumstances were unusual, they were not improbable. DHS and JET had no first hand evidence to dispute Claimant's testimony concerning her lack of employment payments. In light of any contradictory evidence, the undersigned is inclined to accept Claimant's testimony as factual. It is found that Claimant has not received income for her employment.

Though Claimant had not received income for her employment, it may be more important to determine whether she informed the MWA that she was not receiving income for the employment. The undersigned could easily imagine a scenario when a client reports employment to MWA for the purpose of using those employment hours as JET participation; as a result, the client continues receiving FIP benefits without attending JET. Eventually DHS factors the employment income in determining Claimant's FIP and FAP benefits, and then the client reports that the wages never started.

Claimant testified that she reported the lack of payments in her employment to MWA in 2/2011. There was no evidence to refute Claimant's testimony. Accordingly, it must be found that Claimant reported the lack of employment payments to MWA in 2/2011.

If a client is not actually receiving income, it should not be factored in a benefit determination. Accordingly, DHS erred by including Claimant's non-existent employment income in determining Claimant's eligibility for FIP and FAP benefits.

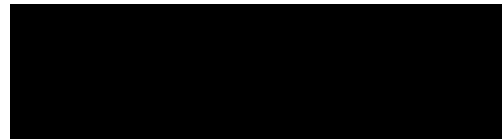
The undersigned cannot make any official determination concerning JET attendance because it is not a directly relevant issue to this case. However, the undersigned foresees no problems in mandating full-time attendance with JET. Just as DHS should not budget employment income that is not paid on an ongoing basis when determining Claimant's benefit eligibility, Claimant can not claim employment in lieu of JET attendance when she is not receiving ongoing wages for the employment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly reduced Claimant's FIP and FAP benefits effective 4/2011 by factoring employment income that did not exist. It is ordered that DHS:

- redetermine Claimant's eligibility for FIP and FAP benefits effective 4/2011;
- exclude Claimant's employment income from the redetermination; and
- supplement Claimant for any benefits not received as a result of the error.

The actions taken by DHS are REVERSED.



Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 23, 2011

Date Mailed: May 23, 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 90 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.

CG/ctl

201130049/CG

cc:

[REDACTED]

Macomb County DHS (20)/1843

[REDACTED]

Administrative Hearings