

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-32889
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: June 2, 2011
DHS County: Macomb (50-20)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on June 2, 2011. Claimant appeared and testified at the hearing. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS calculated Claimant's Food Assistance Program (FAP) benefits in accordance with DHS policies and procedures?

FINDINGS OF FACT

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

1. At all times relevant to this case, Claimant was a DHS customer.
2. In December 2010, Claimant's FAP benefits were \$367.
3. On January 1, 2011, DHS reduced Claimant's FAP benefits to \$130.
4. From February 1-8, 2011, DHS failed to pay FAP benefits to Claimant.
5. From February 9-28, 2011, DHS provided \$94 FAP benefits to Claimant.
6. On March 1, 2011, DHS increased Claimant's FAP benefits to \$154 per month.

7. On April 29, 2011, Claimant filed a Request for Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers the FAP program pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

BAM, BEM and RFT are the policies and procedures DHS officially created for its own use. While the DHS manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

The DHS' authority for its action in this case is BEM 500, "Income Overview." I find that this manual Item does not provide the formula for calculating FAP benefits and does not provide sufficient authority for the actions taken in this case. Looking at the evidence in the record, I find there are no budgets provided to substantiate the four changes that occurred with regard to Claimant's FAP benefits: the January decrease, the February 1-8 gap in benefits, the February 9-29 amount of \$94 and the March amount of \$154. I believe that Claimant's FAP benefits must be recalculated for these four months in order to guarantee that Claimant is receiving the FAP benefits to which he is entitled.

In conclusion, based on all of the findings of fact and conclusions of law, I find and conclude that DHS is REVERSED in this case. DHS must recalculate the correct FAP allotment for Claimant for January-April 2011 and provide Claimant with any retroactive supplemental FAP benefits to which he is entitled.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, states that DHS is REVERSED. IT IS ORDERED that DHS shall recalculate Claimant's FAP benefits for January-April 2011 and provide retroactive supplemental FAP benefits as appropriate and in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 8, 2011

Date Mailed: June 8, 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 date of the rehearing decision.

JL/pf

cc:

