

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

IN THE MATTER OF:



Reg. No.: 2011-50119
Issue No.: 3003, 3019
Case No.: [REDACTED]
Hearing Date: October 19, 2011
County: Macomb

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a hearing was held in Sterling Heights, Michigan on Wednesday, October 19, 2011. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly terminated the Claimant's food assistance ("FAP") benefits effective July 1, 2011?

Whether the Department properly calculated the Claimant's FAP benefits?

FINDINGS OF FACT

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

1. The Claimant was a FAP recipient.
2. On June 9, 2011, the Office of Child Support sent a Non-cooperation notice to the Claimant. (Exhibit 1)
3. On this same date, the Department sent a Notice of Case Action to the Claimant informing him that his FAP benefits would close effective July 1, 2011.

4. On July 1st, the Claimant's FAP benefits were terminated. (Exhibit 3)
5. On July 9, 2011, the OCS sent a Cooperation Notice to the Claimant stating that effective June 8, 2011, the Claimant was cooperating. (Exhibit 2)
6. On July 29, 2011, the Claimant re-applied for FAP benefits.
7. The Claimant received \$424.00 in FAP benefits for August 2011. (Exhibit 5)
8. On August 15, 2011, the Department received the Claimant's written request for hearing protesting the FAP closure and the amount of benefits. (Exhibit 4)
9. After receipt of verifications, the Department recalculated the Claimant's FAP benefits resulting in an increase to \$586.00 in September 2011. (Exhibit 6)
10. On August 24, 2011, the Department requested a \$162.00 supplement to cover the difference for August. (Exhibit 7)
11. The Claimant has not received the August supplement.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

The Food Assistance Program ("FAP"), 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. The Department, formerly known as the Family Independence Agency, administers FAP pursuant to MCL 400.10, *et seq.*, and Michigan Administrative Code Rule 400.3001 through Rule 400.3015.

Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the Department including the OCS, the Friend of the Court, and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255. Cooperation is a condition of eligibility. BEM 255. The head of household and the parent of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255.

In this case, the Claimant received a letter dated June 9th from the OCS stating he was not compliant. The Claimant testified credibly that he made numerous attempts to remedy the situation without success until July 6th. During that time, the Department terminated the Claimant's FAP benefits as a result of the supposed non-cooperation. Eventually, the OCS sent a Cooperation Notice specifically stating that the Claimant's

compliance was effective June 8th, the day prior to the alleged non-cooperation. Although policy required the closure of cases due to non-cooperation with the OCS, here, the OCS erred in issuing the original non-cooperation notice. As a result, the Claimant's FAP benefits were improperly closed in July 2011. Accordingly, the Department's termination of benefits is not upheld.

Subsequently to the improper closure, the Claimant reapplied on July 29th. The Claimant was approved for benefits in the amount of \$424.00 effective August 2011. After the Department received the requested verifications, the Department determined that the correct benefit amount was \$586.00. The Claimant received the increased amount in September but as of this date, and although the Department has requested the \$162.00 supplement for August, the supplement has not been received.

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500. Child support is income to the child for whom the support is paid. BEM 500. In reviewing the FAP budgets for July and August, the Claimant's child support payments were properly included in the budget while the children resided with the Claimant; however, the child support deduction which is supposed to reflect the amount the Claimant paid, was far less than what was counted as unearned income. During the hearing, the Department agreed to recalculate the FAP budgets and put the correct support payments received/paid. In light of the foregoing, the Department's FAP calculation is not upheld.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge finds the Department's actions are not upheld.

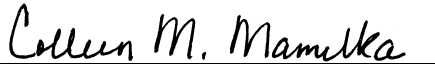
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department's actions are not upheld.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate the Claimant's FAP benefits effective July 2011 using the correct child support income/deduction and notify the Claimant of the determination in accordance with Department policy.

2. The Department shall supplement for lost FAP benefits effective July 2011 that the Claimant was entitled to receive in accordance with this decision if otherwise eligible and qualified.


Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 25, 2011

Date Mailed: October 25, 2011

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative hearings

Reconsideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

CMM/cl

cc:

