

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

IN THE MATTER OF:



Reg. No.: 201233497
Issue No.: 3023
Case No.: [REDACTED]
Hearing Date: March 14, 2012
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 telephone hearing was held on March 14, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly increase Claimant's Food Assistance Program (FAP) benefits effective February 1, 2012, when Claimant's employment ended on November 18, 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 recipient of FAP benefits.
2. On November 14, 2011, Claimant advised her caseworker that her employment was going to end on November 18, 2011.
3. Claimant's caseworker verbally informed Claimant that she needed to provide a copy of her last paystub and a written verification from her employer of the termination of her employment.
4. On November 25, 2011, Claimant faxed her paystub to her caseworker and left a message on her voicemail informing her that her employer did not send out written verifications of termination of employment.
5. Claimant left several messages for her caseworker but no one responded.

6. On December 21, 2011, Claimant sent the Department a letter explaining that her employer did not provide written verification of termination of employment but had advised her that the Department could access her end of employment information through the Work Number.
7. On December 29, 2011, the Department received Claimant's letter.
8. On January 20, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would increase to \$200 per month effective February 1, 2012.
9. On January 30, 2012, Claimant filed a request for hearing, contending that she was entitled to increased FAP benefits for December 2011 and January 2012.

CONCLUSIONS OF LAW

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, for FAP cases, the Department must verify income that decreases or stops. BEM 500; BEM 501. The Department testified that, when it received Claimant's December 21, 2011 letter on December 29, 2011 advising it that her employment had ended and referring the Department to the Work Number for information verifying the end of her employment, it recalculated Claimant's FAP budget to reflect income of \$0. It subsequently sent Claimant a January 20, 2012 Notice of Case action increasing her FAP benefits to \$200 per month, the maximum available to her group size of one, effective February 1, 2012, ongoing.

At the hearing, Claimant contended that she was entitled to the higher monthly FAP allotment for December 2011 and January 2012 because she timely advised the Department of the termination of her employment. She credibly testified that she called her worker on November 14, 2011, to let her know that her employment would be ending on November 18, 2011. Income decreases that result in a benefit increase must be effective no later than the first allotment issued ten days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505. If verification is required or deemed necessary, the Department must allow the household ten days from the date the change is reported or the date verification is requested to provide verification. BEM 505. The change must still affect the correct issuance month (i.e., the month after the month in which the tenth day after the change is reported). BEM 505. The Department must advise the client what verification is required, how to obtain it, and the due date. BAM 130. In this case, Claimant testified that her caseworker told her to send in her last paystub and to get written verification from her employer concerning the end of her employment. However, there was no evidence that the worker gave Claimant a due date for submitting the verification.

Claimant testified that her employer told her that it did not provide written verifications of end of employment and referred her to the Work Number. Claimant credibly testified that on November 25, 2011, she faxed her last paystub to her caseworker and left messages on the worker's voicemail informing her that her employer did not provide written statements concerning the end of employment but did participate in the Work Number and provided the employer's identification number. The client has primary responsibility for obtaining verification. BEM 501. However, if verification of income is not available because the employer uses the Work Number and will not provide the employment information, it is appropriate for the Department to use the Work Number. BEM 501. Thus, Claimant provided the verification requested when she provided the Work Number information to her caseworker by phone on November 25, 2011. Even though this information was provided 11 days after Claimant informed her worker of the

change, there was no evidence that Claimant was provided with a due date to provide the verification.

Claimant credibly testified that, when she did not receive a response from her caseworker, she left her caseworker and the worker's supervisor multiple messages that were not returned. Evidence at the hearing showing that Claimant has had three different caseworkers overseeing her case since November 2011, with Claimant's first worker ending her employment with the Department in December 2011, further supported Claimant's testimony that no one responded to her calls or worked on her case. While the client must obtain required verification, the Department must assist if the client needs and requests help. BAM 130. By failing to (i) properly advise Claimant of the verifications required and the due date, (ii) assist Claimant when she subsequently called and requested assistance, and (iii) timely process Claimant's termination of employment information, the Department did not act in accordance with Department policy.


DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
 did act properly. did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

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

1. Recalculate Claimant's FAP budgets for December 2011 and January 2012 as if the information in the December 21, 2011, letter Claimant sent to the Department concerning the end of her employment was timely received by the Department within ten days of the date she notified the Department of the end of her employment on November 14, 2011;
2. Issue supplements for any FAP benefits Claimant was entitled to receive but did not from December 2011 ongoing;
3. Notify Claimant in writing of its decision in accordance with Department policy.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 20, 2012
Date Mailed: March 20, 2012

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

ACE/cl

cc:

