

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201256650
Issue No: 3002
Case No: [REDACTED]
June 27, 2012
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 June 27, 2012. The claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined the amount of the claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The claimant has been a recipient of FAP benefits at all times pertinent to this hearing.
2. In April 2012, the claimant supplied doctor's notes to the department stating that she was not able to work for specified periods of time.
3. On May 4, 2012, the claimant informed the department that she was going to be off work indefinitely due to medical issues.
4. A new budget was run for the claimant that increased her FAP benefits beginning the month of June 2012.
5. The claimant was sent a notice of case action on May 11, 2012 stating that her FAP benefits would be increasing effective June 1, 2012.

6. The claimant filed a request for hearing on May 23, 2012, protesting the date that her FAP benefits were increased.

CONCLUSIONS OF LAW

As a preliminary matter, the claimant indicated in her hearing request that she was requesting a hearing regarding and application for SER benefits in addition to her FAP benefits. MAC 400.903 lays out instances where recipients of assistance have a right to an administrative hearing within the Michigan DHS. This rule specifies when an opportunity for a hearing shall be granted:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC 400.903(1).

At the time of the hearing, the claimant testified that her SER application had subsequently been approved. As the department has taken no negative action regarding the claimant's SER application, the claimant does not have a right to hearing pertaining to the SER application. Accordingly, the portion of the claimant's hearing request pertaining to her SER application is hereby dismissed.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 of Human Services (DHS or department) 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 Bridges Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received

from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

In determining the monthly amount of income to be used for budgeting purposes, department policy states as follows:

Standard Monthly Amount

Stable and Fluctuating Income

A standard monthly amount must be determined for each income source used in the budget.

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- . Multiply weekly income by 4.3.
- . Multiply amounts received every two weeks by 2.15.
- . Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month. BEM 505.

Policy states that when income changes, the amounts being budgeted are to be changed for future pay periods. Policy further states:

Stopping Income

For stopping income, budget the final income expected to be received in the benefit month. Use the best available information to determine the amount of the last check expected. Use information from the source and from the client. Remove stopped income from the budget for future months. BEM 505.

Additionally, policy directs the action to be taken when a claimant reports a reduction or cessation of income that will affect benefit levels. Policy states:

**Income Decrease
FAP**

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. Do **not** process a change for a month earlier than the month the change occurred. A supplement may be necessary in some cases. BEM 505.

In the case at hand, the claimant contends that her FAP benefits should have increased for the month of May, as she reported that she was off work for certain time periods in April. However, the claimant did not report that she was going to be off work indefinitely until May 4, 2012. The claimant submitted two doctor's notes regarding her ability to work to the department in April. The documentation she submitted to the department stated that she was off work for the periods of April 4, 2012 through April 16, 2012 and April 13, 2012 through April 23, 2012, respectively. Based on this information, the department could reasonably conclude that the claimant would have been returning to her regularly scheduled work regiment after April 23, 2012. It was not until May that the department was made aware that the claimant would be off work indefinitely.

Therefore, if the department was under the impression that the claimant would be returning to work in April, there would be no need to calculate a new budget for the month of May as the current budget based on perspective income would still have been applicable. However, once the department was made aware that the claimant would not be returning to her regular work regiment, the department would be required to adjust her budget accordingly. Therefore the department was required to complete a new budget for the claimant which would affect the first allotment issued after the change was reported, specifically the month of June 2012. The Administrative Law Judge therefore determines that the department took the appropriate steps to re-calculate the claimant's FAP budget based on the information provided to the department. The department acted properly in accordance with policy in determining the amount of the claimant's FAP allotment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined the amount of the claimant's FAP benefits.

Accordingly, the department's actions are **AFFIRMED**.

It is SO ORDERED.

/s/ _____
Christopher S. Saunders
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 3, 2012

Date Mailed: July 5, 2012

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.

CSS/cr

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