

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201267775  
Issue No.: 3012  
Case No.: [REDACTED]  
Hearing Date: September 5, 2012  
County: Wayne DHS (19)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 September 5, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Supervisor, and [REDACTED], Specialist.

**ISSUE**

The issue is whether DHS properly processed a reported decrease in Claimant's income to affect Claimant's Food Assistance Program (FAP) benefit eligibility.

**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 FAP benefit recipient.
2. In 7/2012, Claimant's employment income decreased after she exhausted her employment leave hours.
3. On an unspecified date, Claimant reported the income reduction to DHS.
4. On 8/7/12, DHS received verification of Claimant's employment income decrease.
5. On 7/20/12, DHS processed Claimant's FAP benefit eligibility for 8/2012, in part, based on continuing to budget employment income for Claimant.

6. On 7/31/12, Claimant requested a hearing to dispute her FAP benefit eligibility for 8/2012.

### **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 administers the 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 dispute in the present case concerns whether DHS properly processed a reported income decrease. It was not disputed that DHS processed a reported income decrease to affect Claimant's 9/2012 FAP benefit eligibility. Claimant contended that the change should have affected her 8/2012 eligibility.

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. BEM 505 (10/2010), pp. 8-9. A supplement may be necessary in some cases. *Id.* p. 9.

The above policy is clear that the reporting date and whether a client timely verified a change are factors in determining the effective month of change. Neither Claimant nor DHS could state with certainty when the income decrease was reported to DHS. Claimant suggested that the income decrease was reported to DHS in early 8/2012. It is known that DHS received verification of the income decrease on 8/7/12. Thus, it can be deduced that Claimant could have reported and timely verified the change no sooner than 7/27/12 based on the 10 calendar days clients have to verify information. BAM 130 (5/2012), p. 5. For purposes of this decision, 7/27/12 will be accepted as the reporting date of the income change.

Ten days following the report date of the change is 8/6/12. Reading the policy literally, the effective month of change is the month which has the next FAP benefit allotment ten days after 7/27/12; this date is 8/6/12. If "allotment" is interpreted to mean when FAP benefits are available to Claimant, then 8/2012 could be the effective month of the change if Claimant receives FAP benefits on a date after 8/6/2012.

An alternative interpretation is that FAP benefits are determined at the beginning of each month and that the first of each month is the FAP benefit allotment date. Under this interpretation, Claimant would have already received 8/2012 FAP benefits by 8/6/12 and the next allotment would have occurred in 9/2012 making 9/2012 the proper effective month of change.

Typically, a literal reading is the best reading of a policy. This tends to support finding that the first FAP benefit month affected by Claimant's reported income decrease was 8/2012.

A general rule interpretation guideline is that if something is vaguely written, it should be interpreted unfavorably for the party that drafted the policy. This also supports a finding that 8/2012 should be the first month affected by the income decrease.

In the present case, DHS regulations clarified the reporting change policy by providing four examples (see BEM 505 (10/2010), p. 9. In each of the four examples, the affected FAP benefit month was the calendar month that occurred after the 10<sup>th</sup> day after the reporting date. This strongly supports finding that the DHS interpretation was correct. Further, none of the policy examples refer to the specific date that a client receives FAP benefits; this is also supportive of the DHS interpretation. Based on the presented evidence, it is found that DHS regulations require that a change in the first full calendar month following the 10<sup>th</sup> day after a reported change. Based on Claimant's reported change date of 7/27/12, it is found that DHS properly processed Claimant's reported change for 9/2012.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly processed Claimant's reported income decrease to affect the month of 9/2012. The actions taken by DHS are AFFIRMED.



Christian Gardocki  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: September 11, 2012

Date Mailed: September 11, 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

CG/hw

cc:

