

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201332008
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: May 13, 2013
County: Oakland DHS (03)

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 May 13, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility based on a reported employment income change by Claimant.

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. Claimant was an ongoing employment income recipient.
3. As of approximately 12/10/12, Claimant quit her employment.
4. In 12/2012, Claimant reported the change to her DHS specialist.
5. DHS did not request proof of Claimant's stoppage in employment income until 2/2013.

6. On 2/13/13, DHS determined Claimant's FAP benefit eligibility, effective 3/2013, based on a stoppage in employment income.
7. On 2/21/13, Claimant requested a hearing to dispute her FAP benefit eligibility for 1/2013 and 2/2013.

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).

Prior to a substantive analysis, it should be noted that Claimant's hearing request noted special arrangements were needed to participate in the administrative hearing. Claimant testified that she required no special arrangements and the hearing was conducted accordingly.

Claimant testified that she requested a hearing concerning FAP benefit issuances for 1/2013 and 2/2013. DHS issued \$318 in FAP benefits to Claimant for 1/2013 and \$319 to Claimant for 2/2013. Claimant contended that she should have received additional FAP benefits. A FAP budget was not presented, however, the dispute between DHS and Claimant appeared to be limited to when Claimant reported the stoppage in employment income to DHS. 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.

It was not disputed that Claimant received employment income until she quit her job in early 12/2012. It was not disputed that DHS received verification of the income stoppage in 2/2013 and that the employment income was removed from the FAP benefit determination, effective 3/2013. DHS contended that Claimant first reported the income stoppage until 2/2013 and that Claimant received the proper benefits based on the untimely reporting. Claimant contended that she reported the stoppage to her specialist in early 12/2012 and that DHS failed to request verification from Claimant until weeks later. Thus, the key issue is when Claimant reported the income change to DHS.

Claimant credibly testified that she called her DHS specialist and left messages reporting the income stoppage to DHS on approximately 12/10/12. Claimant failed to present document verification that calls were made to DHS on 12/10/12. Generally, the party making a telephone call has the burden to verify the telephone call because the calling party has access to telephone records which can verify the call. Despite the absence of verification, Claimant's testimony was credible.

Claimant's testimony was also not rebutted. DHS failed to present Claimant's then-specialist as a witness to rebut that Claimant left no messages concerning an income stoppage.

DHS claimed they had access to incoming call records and offered them as proof. DHS was given a day to present the records, but failed to do so. Generally, when a party fails to provide evidence, the evidence is interpreted unfavorably against the party failing to make the submission.

Based on the presented evidence, it is found that Claimant reported an income change to DHS in early 12/2012. Because DHS failed to request verification from Claimant within 10 days of the reporting, Claimant is entitled to receive benefits that were not issued because of the DHS delay in requesting proof of stopped income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP benefit eligibility for 1/2013 and 2/2013. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility for 1/2013 and 2/2013 subject to the finding that Claimant timely verified an employment income stoppage for a reporting date from 12/10/2012; and
- (2) supplement Claimant for any FAP benefits not issued in error.

The actions taken by DHS are REVERSED.


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

Date Signed: 5/21/2013

Date Mailed: 5/21/2013

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:

