

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-55722
Issue Nos.: 2015, 3015
Case No.: [REDACTED]
Hearing Date: August 28, 2011
DHS County: Macomb (50-36)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a hearing was held on April 28, 2011, at the Macomb County Sterling Heights District Office. Claimant was present and testified at the hearing. [REDACTED] appeared and testified as a witness for Claimant. [REDACTED], and [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS denied Food Assistance Program (FAP) and Medical Assistance-Low-Income Families (MA-LIF or Medicaid) benefits to Claimant in accordance with DHS policy and procedure?

FINDINGS OF FACT

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

1. On September 1, 2009, DHS provided MA-LIF to Claimant.
2. On September 28, 2009, DHS awarded FAP benefits to Claimant.
3. On August 17, 2010, DHS sent a Verification Checklist to Claimant requesting current employment and income information.
4. On August 31, 2010, Claimant submitted 2010 wage verifications from [REDACTED] and [REDACTED] and statements showing \$3,200

income in June 2009 and \$5,500 income in July 2009 in the form of cash contributions from family and friends.

5. On September 1, 2010, DHS closed Claimant's FAP benefits, closed Claimant's MA-LIF benefits, and opened MA-Other Healthy Kids (OHK) benefits for Claimant's children.
6. Also on September 1, 2010, DHS enrolled Claimant in the MA-Temporary Medical Assistance (TMA) program.
7. On September 15, 2010, Claimant filed a hearing request notice with DHS.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. DHS administers the MA program pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS' policies are found in BAM, BEM and RFT. *Id.*

The issue I address in this case is the September 2010 closure of Claimant's FAP and MA-LIF benefits. The administrative manuals are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies to the issue in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

In this case, DHS cites BAM 130, "Verification and Collateral Contacts," in the Hearing Summary it prepared for this Administrative Hearing as legal authority for its actions. This policy provides the rules for adequate proof of income and employment. Pursuant to BAM 130, and having reviewed all of the evidence and testimony as a whole in this case, I find and conclude that Claimant provided adequate verification of 2010 employment for herself and others in the family group. Indeed, DHS did not reject the paystubs and paychecks reflecting 2010 employment. I find and conclude that

Claimant's submission of adequate proof of income requires DHS to determine Claimant's eligibility pursuant to BAM 105, "Rights and Responsibilities."

DHS did not cite BAM 105, "Rights and Responsibilities." I find that BAM 105 applies in this case as well as BAM 130.

BAM 105 requires DHS to administer its programs in a responsible manner so as to protect clients' rights. At the outset of BAM 105, it states:

RIGHTS AND RESPONSIBILITIES

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- Determine eligibility.
- Calculate the level of benefits.
- Protect client rights.

BAM 105, p. 1 (bold print in original).

I read the opening section of BAM 105 to mean that DHS must fulfill these duties, and DHS is subject to judicial review of its fulfillment of these duties. If it is found that DHS failed in any duty to the client, it has committed error.

In addition, BAM 105 requires clients to cooperate with DHS' determination processes.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. See Refusal to Cooperate Penalties in this section.... Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. *Id.*, p. 5.

Applying this policy to the case at hand, I find and conclude that Claimant exhibited full cooperation when she submitted her 2010 paystubs and copies of paychecks of other family members. I find and conclude that DHS failed to protect client rights when it failed to determine eligibility based on this information. I decide and determine that DHS erred in this case and a remedy is appropriate.

Based on the record in this case, I find and conclude that DHS erroneously included Claimant's 2009 unearned income in Claimant's income in the year 2010. I find and conclude that Claimant, in an effort to cooperate with DHS, submitted documentation of

unearned income from 2009, consisting of contributions of \$3,200 in the second quarter of 2009 and \$5,500 in the third quarter of 2009. I find and determine that DHS cannot consider Claimant's 2009 income in the determination of her eligibility in 2010.

In conclusion, based on the above findings of fact and conclusions of law, I find and conclude that Claimant submitted paychecks and income information for the relevant months in 2010 sufficient to make a determination of eligibility, and I find and conclude that DHS failed to do so. Accordingly, I REVERSE DHS' termination of Claimant's FAP and MA-LIF benefits in September 2010, and I will order DHS to reinstate these two types of benefits, recalculate her eligibility and allotment based on the earned income information Claimant provided, and provide supplemental retroactive benefits as appropriate.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is REVERSED. IT IS ORDERED that DHS shall reinstate and reprocess Claimant's FAP and MA-LIF Redetermination application, accept and process Claimant's income verification documents, reprocess her 2010 Redetermination, and provide all supplemental retroactive benefits to which she is entitled in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 5, 2011

Date Mailed: May 5, 2011

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 90 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

JL/pf

cc:

