

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-10666
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 18, 2011
DHS County: Wayne (82-57)

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 telephone hearing was held on January 18, 2011. Claimant appeared and testified. [REDACTED], Claimant's daughter, appeared and testified on behalf of Claimant. The Department of Human Services (DHS) did not appear.

ISSUE

Whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefits?

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. In 2010, Claimant received Social Security Retirement Income of \$1,093 per month.
2. In 2010, Claimant received FAP benefits on a monthly basis.
3. There came a time in 2010 when Claimant's FAP benefits were reduced to \$25 per month without any explanation from DHS.
4. On November 23, 2010, Claimant filed a notice of request for hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by federal regulations 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 Manual (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The administrative manuals are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan State 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 in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

I find that the applicable manual policy item to apply in this case is BAM 105, "Rights and Responsibilities." BAM 105 sets forth what DHS' responsibility to customers consists of. It states at the outset:

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

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

BAM 105, p. 1 of 13 (bold print in original).

I therefore first consider whether DHS fulfilled its responsibility to Claimant in this case. In doing this, I examined all of the evidence and the testimony in the case in its entirety. I find there is nothing in the record to show how DHS determined if Claimant was eligible, how her benefit level was calculated and subsequently reduced, and whether her rights as a DHS customer were protected to the full extent of the law.

In addition, the Claimant's testimony at the hearing indicated she had no change of income or shelter expenses which would explain a reduction of FAP benefits.

I therefore find and conclude that BAM 105 was not followed in this case and Claimant's benefits were reduced improperly and without any basis. I find and conclude that DHS erred when it failed to reduce Claimant's FAP benefits using a proper formula, and failed to communicate to her the specific reason for the reduction.

I find that DHS erred in this matter and that the error shall be corrected. I decide and conclude that DHS is REVERSED due to DHS error. IT IS ORDERED THAT DHS shall reinstate Claimant's FAP benefits, recalculate the monthly benefit amount, provide supplemental retroactive FAP benefits, if appropriate, and provide Claimant with a clear explanation of how her FAP benefits amount is calculated.

DECISION AND ORDER

Based on the findings of fact and conclusions of law above, I find and determine that DHS is REVERSED in this matter. IT IS ORDERED that DHS shall reinstate and reprocess Claimant's FAP benefits in accordance with DHS policies and procedures.



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

Date Signed: February 1, 2011

Date Mailed: February 2, 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 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.

JL/pf

cc:

