

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.: 2011-1259
Issue Nos.: 1002, 3004
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 1, 2010
DHS County: Oakland (02)

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's request for a hearing. After due notice, a telephone hearing was held on November 1, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied Claimant 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. In 2010, Claimant received FAP benefits.
2. On June 15, 2010, DHS sent Claimant a Redetermination Notice and Redetermination Notice of Telephone Interview.
3. On July 11, 2010, Claimant faxed a paycheck stub to DHS. The check date is July 9, 2010, and the pay period covered was June 21-July 4, 2010.
4. On July 21, 2010, DHS sent Claimant a Verification Checklist stating, "Need Copies of [REDACTED] June Pay stubs," and, "Requested Proof – Last 30 days of check stubs or earning statements."

5. Claimant advised DHS that the July 9, 2010, paycheck was the only income she received in that time period, because she was attending school out of state and was not working.
6. On August 28, 2010, DHS denied FAP benefits to Claimant for the stated reason, "You failed to verify or allow the Department to verify necessary information."
7. On September 3, 2010, Claimant filed a notice of hearing request with DHS.

CONCLUSIONS OF LAW

FAP was established by the 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.

In this case, I am asked to decide whether DHS' August 28, 2010, denial of FAP benefits to Claimant was unlawful. BAM 105, "Rights and Responsibilities," is the applicable DHS manual section in this case. This manual Item addresses the requirement of client cooperation, stating as follows:

RIGHTS AND RESPONSIBILITIES

CLIENT	OR	AUTHORIZED	REPRESENTATIVE
RESPONSIBILITIES			

Responsibility to Cooperate

All Programs

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. BAM 105, p. 5 of 13.

I find and conclude that Claimant gave her fullest cooperation to DHS in this matter, and DHS erred when it denied FAP benefits. Claimant cooperated with the Redetermination process and, when asked to provide income information after that, she did so. At the hearing, Claimant gave credible and un rebutted testimony that she advised DHS by phone that the July 9, 2010, paycheck was her only income for the requested time

period. I accept this testimony and find that she did so, and that DHS was in full possession of acceptable income verification to process Claimant's application.

I find and conclude that Claimant provided the necessary income verification to DHS and DHS should not have denied her FAP application. BAM 105 also provides that the local office has the duty to "protect client rights." *Id.*, p. 1. I find that DHS erred in that it failed to protect client rights when it failed to accept Claimant's income information and process Claimant's application.

I find that DHS is REVERSED in this matter. It is ORDERED that Claimant's application for FAP benefits shall be reopened and processed for continued eligibility in accordance with DHS policy and procedures.

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 reopen and process Claimant's Redetermination Application in accordance with all DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 8, 2010

Date Mailed: November 9, 2010

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.

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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:

