

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.: 2011-12726  
Issue No.: 3004  
Case No.: [REDACTED]  
Hearing Date: February 23, 2011  
DHS County: Wayne (82-43)

**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 February 23, 2011. Claimant appeared and testified. [REDACTED] [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

**ISSUE**

Whether DHS terminated Claimant's Food Assistance Program (FAP) benefits 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. In 2010, Claimant received FAP benefits for herself and her five children.
2. In September 2010, DHS sent Claimant a Semi-Annual Report, DHS Form 1046, requesting updated information.
3. On September 29, 2010, and several other times, Claimant called DHS and left voicemail messages requesting that her Semi-Annual telephone interview be conducted at a telephone at her workplace. DHS did not return her calls.
4. On October 1, 2010, DHS telephoned Claimant at her workplace and conducted the Semi-Annual telephone interview.

5. Claimant explained to DHS that it was very difficult for her to obtain paystubs from her workplace computer. Claimant agreed to supply paystubs on or before Monday, October 11, 2010.
6. On October 7, 2010, Claimant submitted paystubs at the front desk of the local DHS office, signed the DHS desk book, and left a voicemail message telling her Specialist that she brought in the documents.
7. On October 8, 2010, Claimant had a telephone conversation with her Specialist who indicated she had not yet received the paystubs.
8. On October 31, 2010, DHS terminated Claimant's FAP benefits without notice to Claimant.
9. After October 31, 2010, Claimant discovered that her FAP benefits were terminated.
10. In November 2010, Claimant called DHS several times and was informed that her benefits were terminated.
11. Also in November 2010, Claimant came to DHS and spoke to her Specialist's Supervisor, who requested the Specialist call Claimant.
12. The DHS Specialist informed Claimant that she never received the paystubs.
13. DHS misplaced or lost Claimant's paystubs.
14. Also in November 2010, Claimant telephoned DHS in Lansing to request an explanation why her FAP benefits were terminated. DHS presented no explanation to Claimant.
15. On November 23, 2010, Claimant submitted a new application for FAP benefits and was granted benefits based on current income and family group information.
16. On December 8, 2010, DHS issued a Notice of Case Action informing Claimant that her FAP benefits were terminated effective October 31, 2010.
17. On December 28, 2010 Claimant filed a notice of hearing request 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 the FAP program 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](http://www.michigan.gov/dhs-manuals).

The administrative manuals are the policies and procedures that 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 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 presented four manual Items as authority in the DHS Hearing Summary that DHS presented in evidence at the Administrative Hearing on February 23, 2011. These four manual Items are BAM 210, "Redetermination/Ex Parte Review;" BEM 212, "Food Assistance Program Group Composition;" BEM 500, "Income Overview;" and BEM 550, "Income Budgeting." I reviewed these Items and I find that DHS is correct in citing these authorities as the basis for their administrative procedures. However, none of them provides specific guidance to me in deciding the issues presented in this case and I must consider other authority for guidance.

The guidance necessary in this case is found in BAM 105, "Rights and Responsibilities." BAM 105 requires DHS to administer its assistance programs in a responsible manner in order 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 this 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, I read BAM 105 to mean that as long as the client is cooperating, DHS can and should be flexible in its requests for verification. On page 5 it states:

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.

Having identified the relevant legal authority for my decision, I now proceed to my analysis of how the law applies to the facts of the case at hand. DHS asserts that Claimant failed to provide income verification and therefore she is ineligible. The information in dispute consists of current paystubs.

Applying this policy to the case at hand, I find and conclude that Claimant exhibited full cooperation when she submitted her paystubs on October 7, 2010. I find and conclude that DHS failed to protect client rights when it misplaced or lost Claimant's paystubs. I decide and determine that DHS erred in this case and a remedy is appropriate.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS erred in failing to preserve Claimant's verification documentation safely. I find that DHS acted incorrectly and is REVERSED. DHS is ORDERED to reinstate and reopen Claimant's FAP Redetermination, process Claimant's paystubs, and provide Claimant with any retroactive benefits to which she is entitled in accordance with all DHS policies 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 reinstate and reprocess Claimant's FAP Redetermination, accept and process Claimant's paystubs, and provide appropriate supplemental retroactive benefits, in accordance with DHS policies and procedures.



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

Date Signed: March 2, 2011

Date Mailed: March 3, 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:

