

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.: 2011-15106
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: February 17, 2011
DHS County: SPCC East (97-98)

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 17, 2011. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS denied Food Assistance Program (FAP) benefits to Claimant in accordance with DHS policies and procedures?

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 January, 2010, Claimant worked at the [REDACTED].
2. On February 8, 2010, Claimant applied for FAP benefits with DHS.
3. On March 2, 2010, Claimant was hired at [REDACTED].
4. On March 20, 2010, DHS requested verification of employment and income from Claimant.
5. Claimant submitted her January 21, January 28, February 11, February 18, and all of her March 2010 weekly paystubs from the first employer, [REDACTED].

6. Claimant was paid the same amount at [REDACTED] every week.
7. Claimant submitted sufficient verification of her [REDACTED] employment and income.
8. On April 1, 2010, DHS denied Claimant's FAP application.
9. On April 8, 2010, Claimant filed a request for a hearing with DHS.
10. Also on April 8, 2010, Claimant submitted a handwritten statement to DHS, stating, "I believe decision (sic) on my denial is wrong – because although I may have not (sic) sent in a paystub I sent several in showing my income – which is same weekly..."

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 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.

The 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 the 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 policy Item is, I will examine whether it was in fact followed in this case.

In this case, DHS cited five manual Items in its Hearings Summary as legal authority for its action in this case. I find that none of them gives me sufficiently specific guidance in deciding this case and I must look elsewhere.

I determine that the relevant manual Item in this case is BEM 505, "Prospective Budgeting/Income Change Processing." This Item starts with a unique "Client Department Philosophy:"

PROSPECTIVE BUDGETING/INCOME CHANGE PROCESSING

CLIENT DEPARTMENT PHILOSOPHY

A group's benefits for a month are based, in part, on a prospective income determination. A best estimate of income expected to be

received by the group during a specific month is determined and used in the budget computation.

Get input from the client whenever possible to establish this best estimate amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. BEM 505, p. 1.

I read this Philosophy to mean that DHS is not required compute income with exactitude and, instead, DHS shall create a "best estimate" which can be used to forecast future income. I read the second part of this section to mean that information from the customer about pay rates, frequency of pay, etc., is valid and can be utilized to arrive at a best estimate.

In the case before me, I find and conclude that DHS failed to create a best estimate based on reliable information in the file. I find and conclude that DHS had at least four weekly paystubs from [REDACTED], all of which were identical. I find and conclude that this documentation is a reasonable basis for a best estimate of Claimant's prospective income.

I further find and determine that DHS erred when they failed to analyze the four [REDACTED] [REDACTED] paystubs, failed to note that they are identical, and then failed to ask the Claimant for information about her missing January 21 and 28 paystubs. I conclude that if DHS had followed up in this manner, Claimant would have informed them that her [REDACTED] paychecks were always the same. Indeed, this is exactly what Claimant states in her handwritten statement, which is in evidence.

Based on this evidence and all of the evidence taken as a whole in this case, I find and conclude that Claimant's income with [REDACTED] was "stable income" as set forth in BEM 505. I find that Claimant's submission constituted adequate verification of her income. I find and conclude that DHS failed to protect client rights when they failed to use the February paystubs for informational purposes in lieu of the missing January 21 and 28 paystubs, and DHS should not have denied Claimant's FAP benefits. I find and conclude that DHS should have used the February paystubs to augment the information in the two January paystubs.

In conclusion, based on the findings of fact and conclusions of law above, I decide and conclude that DHS did not follow its own procedures in this case and DHS is therefore REVERSED. IT IS ORDERED that Claimant's application shall be reopened and processed, taking into consideration all of the employment information available and using the DHS Specialist's best judgment to arrive at a best estimate of her income. Claimant shall be afforded all FAP retroactive benefits to which she is entitled in accordance with DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES the denial of FAP benefits in this case. IT IS ORDERED that DHS shall reopen and reprocess Claimant's application, taking into consideration all of Claimant's paystubs and statements to the effect that her weekly pay at [REDACTED] is always the same, and using DHS' best judgment to arrive at the best estimate of Claimant's income. All steps shall be taken in accordance with DHS policies and procedures.



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

Date Signed: February 28, 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:

