

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.: 2011-19069
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: March 14, 2011
DHS County: SSPC-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 March 14, 2011. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS denied Claimant's Food Assistance Program (FAP) benefits application in accordance with its policy 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. On October 7, 2010, Claimant applied for FAP benefits with DHS.
2. On November 16, 2010, DHS sent Claimant a Verification Checklist requesting rent and employment information with a due date of November 29, 2010.
3. On or before November 29, 2010, Claimant submitted adequate rent information to DHS.
4. On or before November 29, 2010, Claimant made arrangements with her employer, [REDACTED], for them to fax employment verification to DHS.
5. DHS did not receive Claimant's employment verification.

6. On December 3, 2010, DHS denied Claimant's FAP application.
7. On January 12, 2011, Claimant filed a Request for a Hearing 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 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.

I find that BAM 105 is the applicable item in this case. BAM 105 requires DHS to administer its programs in a responsible manner 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 it with necessary information in ten days and she is, therefore, ineligible. The information in dispute consists of employment verification from [REDACTED].

Applying this policy to the case at hand, I find and conclude that Claimant exhibited full cooperation when she requested that [REDACTED] submit verification of employment to DHS. I find and conclude that either DHS never received the verification, or DHS misplaced or lost the verification. Regardless of which event occurred, as Claimant did cooperate fully, she is entitled to have her application reinstated and her rights to benefits protected. I decide and determine that Claimant is entitled to a second opportunity to provide the income verification to support her October 7, 2010, application. I decide and determine that Claimant cooperated 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 acted incorrectly and is REVERSED. DHS is ORDERED to reinstate and reopen Claimant's FAP application of October 7, 2010, allow her an opportunity to submit appropriate employment and income information, and determine her eligibility for FAP benefits from October 7, 2010, 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 application and benefits, accept and process Claimant's employment verification, determine Claimant's eligibility, and provide appropriate supplemental retroactive benefits as of October 7, 2010, in accordance with DHS policies and procedures.



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

Date Signed: March 21, 2011

Date Mailed: March 24, 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:

