

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.: 2011-20454  
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. Claimant's Authorized Representative, [REDACTED], also appeared and testified. [REDACTED], and [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 25, 2010, Claimant applied for FAP benefits with DHS.
2. On November 9, 2010, DHS sent Claimant a Verification Checklist requesting utility bills, records of interest and dividends received, and medical expenses, with a due date of November 19, 2010.
3. Claimant did not submit verification information to DHS.
4. On November 23, 2010, DHS denied Claimant's FAP application.

5. On December 1, 2010, 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](http://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.

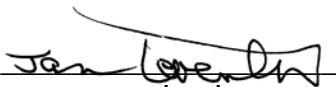
Having identified the relevant legal authority for my decision, I now proceed to my analysis of how the law applies to the facts of the case at hand. DHS asserts that Claimant failed to provide DHS with necessary information in ten days and she is therefore ineligible. The information in dispute consists of IRA payments of \$80 per month from a financial institution from October 2010 to the present, and past or current utility bills.

At the hearing, Claimant testified that she did not understand what was required of her and was now in full understanding of what was required and was willing to cooperate. As Claimant is fully cooperative and has not refused to cooperate with the verification process, I find and conclude that in order to protect her right to benefits, DHS is obligated to provide her with a sufficient opportunity to submit verification.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS is REVERSED. DHS is ORDERED to reinstate and reopen Claimant's FAP application of October 25, 2010, allow her an opportunity to submit appropriate income and utility information, and determine her eligibility for FAP benefits from October 25, 2010, to the present 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, accept Claimant's income and utility verification documents, determine Claimant's eligibility, and provide appropriate supplemental retroactive benefits effective October 25, 2010, 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 21, 2011

2011-20454/JL

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:

