

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.: 2011-20795
Issue Nos.: 1000, 3000
Case No.: [REDACTED]
Hearing Date: March 16, 2011
DHS County: Wayne (82-41)

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 16, 2011. Claimant appeared and testified at the hearing. [REDACTED], and [REDACTED] appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant cooperated fully with DHS procedures for Family Independence Program (FIP) and Food Assistance Program (FAP) benefits application?

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 December 21, 2010, Claimant applied for FIP and FAP benefits with DHS.
2. On or about January 1, 2011, Claimant submitted DHS Employment Verification Form 38 via the drop box located in the local office lobby.
3. DHS did not receive, or misplaced, or lost, Claimant's verification form.
4. On January 19, 2011, DHS sent Claimant a Verification Checklist.
5. On February 1, 2011, DHS denied Claimant's application.

6. At the Administrative Hearing held on March 16, 2011, DHS offered to reinstate and reprocess Claimant's application, including providing her with a reasonable extension of time in which to resubmit employment verification.
7. As a result of DHS' offer, Claimant testified she no longer wished to proceed with the Administrative Hearing.

CONCLUSIONS OF LAW

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 United States Code 601 *et seq.* DHS administers the FIP program pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. 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.

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers the FAP program pursuant to MCL 400.10 *et seq.* and MACR 400.3001-400.3015. DHS' policies are found in BAM, BEM and RFT. *Id.*

Under BAM Item 600, clients have the right to contest any DHS decision affecting eligibility or benefit levels whenever they believe the decision is illegal. DHS provides an Administrative Hearing to review the decision and determine if it is appropriate. DHS policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when DHS receives a hearing request and continue through the day of the hearing.

I also find that BAM 105 is applicable 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 it 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.

In this case, the parties stipulated to a settlement agreement whereby DHS will reopen and reprocess Claimant's FAP application, allow her an extension of time in which to resubmit employment verification, and make an eligibility determination. I find that the agreement of the parties is consistent with DHS policy and procedure and provides an appropriate solution in this case. As the parties have reached an agreement, it is not necessary for the Administrative Law Judge to decide the issues presented in this case.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact, conclusions of law, and the settlement agreement of the parties, states IT IS ORDERED that DHS shall reinstate and reprocess Claimant's FAP application, allowing her an extension of time in which to resubmit her employment verification. DHS shall take all steps in accordance with DHS policies and procedures.

IT IS SO ORDERED.



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

Date Signed: March 24, 2011

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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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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:

