

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.: 2011-24111  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: April 6, 2011  
DHS County: Macomb (50-20)

**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 April 6, 2011. Claimant appeared and testified. [REDACTED]

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

**ISSUE**

Whether Claimant cooperated with DHS in providing verification in support of her Redetermination Application for Food Assistance Program (FAP) benefits?

**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, DHS provided FAP benefits to Claimant.
2. On about January 1, 2011, DHS sent Claimant a Redetermination Application requesting current information about her income and employment.
3. On February 3, 2011, DHS sent Claimant a Verification Checklist requesting paycheck stubs for January 28 and February 4, 2011, and verification of loss of employment from two jobs, [REDACTED] and [REDACTED]. The requested due date was February 14, 2011.

4. On February 14, 2011, Claimant provided DHS with three paystubs dated December 24, 2010, January 14, 2011, and January 21, 2011
5. On February 22, 2011, Claimant provided DHS with a letter from [REDACTED], an owner of the [REDACTED], stating she was no longer employed and that her employment ended in March 2010.
6. Claimant's IRS W-2 Form for [REDACTED] states she earned \$525.41 in 2010.
7. On February 23, 2011, Claimant provided DHS with proof of loss of employment from the [REDACTED].
8. On February 23, 2011, Claimant filed a Request for a Hearing with DHS.
9. On or about February 28, 2011, DHS closed Claimant's FAP benefits.

#### **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 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.

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 verification of loss of employment at [REDACTED], and states in the Hearing Summary that Claimant “failed to provide proof of stopped employment for one employer.” DHS is not taking the position that Claimant refused to cooperate either in its written Hearing Summary or at the April 6, 2011, Administrative Hearing.

I have reviewed all of the evidence and testimony in this case and I find that DHS is incorrect in its statement that Claimant “failed to provide proof of stopped employment from one employer.” I have found as fact that on February 22, 2011, Claimant provided a letter to DHS from her previous employer, [REDACTED]. The letter was read into the record, and it states that Claimant’s employment ended in March 2010, and that a person who stated on the phone to DHS that she was still employed there was incorrect. I find that DHS has no valid reason not to accept this letter as verification of loss of employment, and DHS is ordered to accept it.

I find that this letter does in fact verify Claimant's loss of employment and also proves that Claimant resolved a discrepancy between her statement and the statement of a person on the phone with DHS. I find also that Claimant's W-2, which shows only \$525.41 income from [REDACTED] in 2010 corroborates the contents of the [REDACTED] letter, in that Claimant was employed for only a short period of time and could not have earned much income on this job. I also accept the credible and un rebutted testimony of Claimant at the Administrative Hearing that she had surgery on [REDACTED], and she did not return to work at [REDACTED] afterwards.

At the hearing, DHS testified that they awaited an affidavit regarding Claimant's loss of employment. I consider this to be a different position than the position DHS took in the Hearing Summary. I find and conclude that Claimant did not fail to provide proof of stopped employment but that DHS doubts the veracity of the letter. DHS' sole reason for doubting the letter appears to be the statement of a person whose first or last name is [REDACTED] and who answered the phone at [REDACTED] and stated that someone by the name of [REDACTED] worked there.

I find DHS' testimony to be unreliable and to have no inherent trustworthiness in its content or in the circumstances in which it was made and reported. The person's name is only partially known, the person's job title is unknown, [REDACTED] may be referring to another person named [REDACTED], the phone call was in March 2011 regarding events from 2010, and the owner stated in writing that [REDACTED] was incorrect. I, therefore, find that DHS erred and a remedy shall be provided to Claimant.

Applying BAM 105 to this case, I find and determine that Claimant has given full cooperation to DHS in providing the documentation requested, even including a response to a discrepancy that DHS brought to her attention. As Claimant is fully cooperative and has not refused to cooperate with the verification process, I find and conclude that DHS erred in that it failed to protect the client's right to benefits.

In conclusion, based on the findings of fact and conclusions of law above, I decide and determine that DHS has failed to prove by clear and convincing evidence that Claimant refused to produce verification of loss of employment. I find and determine further that Claimant did produce verification of loss of employment. DHS erred in this case by failing to accept Claimant's verification and, pursuant to BAM 105 DHS, has a duty to accept it.

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 reopen and reprocess Claimant's FAP benefits and provide Claimant with all supplemental retroactive benefits to which she is entitled. All steps shall be taken 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 HEREBY ORDERED that DHS shall reopen and reprocess Claimant's FAP benefits and provide her with all supplemental retroactive benefits to which she is entitled. All steps shall be taken 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: April 11, 2011

Date Mailed: April 13, 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:

