

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.: 2011-3049  
Issue No.: 3008  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: November 22, 2010  
DHS County: Macomb (12)

**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 November 22, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

**ISSUE**

Whether DHS properly terminated Claimant's 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. On October 8, 2009, DHS awarded Claimant FAP benefits of \$133 per month.
2. On September 8, 2010, DHS sent Claimant a Redetermination Form requesting current employment information.
3. After September 8, 2010, Claimant submitted her son's paystubs to DHS to verify employment.
4. Claimant spoke with DHS and left messages several times.
5. On or about September 24, 2010, DHS told Claimant to pick up DHS Employment Verification Form 38 at the local office.

6. On September 24, 2010, when Claimant arrived to pick up the Verification Form, it was not available.
7. On October 4, 2010, Claimant's Verification of Employment form was due.
8. Claimant could not return the Employment Verification Form in a timely manner because the form had to be filled out at the employer's corporate headquarters, which was in another state.
9. On October 1, 2010, DHS terminated Claimant's FAP benefits.
10. On October 14, 2010, Claimant filed a notice of hearing request with DHS.

### **CONCLUSIONS OF LAW**

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 Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies and procedures are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals are available online at [www.michigan.gov/dhs-manuals](http://www.michigan.gov/dhs-manuals).

DHS' policy manuals are the primary source of information about the rights and responsibilities of DHS and the Claimant. I agree with DHS that BAM Item 600, "Hearings," is applicable to this case and I cite it as authority in this case.

BAM 600 states at the beginning of the Item that the Department's policy is to clarify and resolve the client's concerns all the way through the day of the administrative hearing.

#### **HEARINGS**

#### **DEPARTMENT POLICY**

#### **All Programs**

**Efforts to clarify and resolve the client's concerns must start when the hearing request is received and continue through the day of the hearing.** BAM 600, p. 1 (bold print in original).

At the hearing, DHS testified that Claimant's paystubs for her son's employment did not indicate the number of hours worked and the hourly rate of pay. DHS testified that

because DHS did not have this information DHS could not make an estimate of average monthly income for Claimant's son and, therefore, terminated Claimant's benefits.

Claimant's hearing request states verbatim as follows:

I am requesting a hearing regarding the closing of my case for the month of Oct/2010 medical [REDACTED] Food assistance for entire family I recently attached copies of all verified paperwork first September/Gross [REDACTED] Pizza/Employer verification/bank statements/payroll/ unemployment/ Redetermination letter in mail – did mail – submit paperwork. Spoke to [REDACTED] several times/left messages/ she said she would leave employer verification at desk I came up front desk said “No paperwork here” so I made copies of gross pay stubs. If at all possible all information was turned in, [REDACTED] employer was ask to fill out form/management stated you need fax to corporate/which than I did call [REDACTED] to ask for extension because of paperwork from the desk. Said no paperwork is here!! September 24, 2010. Request for Hearing, [REDACTED], September 24, 2010.

I find and decide that DHS, at least as of October 14, 2010, when it received Claimant's hearing request, failed to make the effort required by BAM 600 to clarify and resolve the case. At a minimum, on October 14, 2010, after reading Claimant's hearing request notice, DHS could have granted her the extension she previously requested.

Indeed, based on Claimant's statements in the hearing request and the testimony in this case, I find and conclude that, even before that date, DHS should have handled this case by asking Claimant for hour and wage information for her son and used the information to calculate an estimated average monthly wage.

I find that DHS, by its action, failed to protect client rights as required by BAM 105, “Rights and Responsibilities:”

## **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.

I find and conclude that Claimant was entitled to consideration of the difficulties she was encountering in obtaining employment verification. I find and conclude that her request for an extension was reasonable and should have been granted, and her right to FAP benefits was not fully protected in this case.

Third, I find that DHS failed to apply another portion of BAM 105 in this case relating to its own responsibilities. BAM 105 requires that a FAP case should not be denied because there is a third party who fails to provide verification.

**FAP Only**

Do **not** deny eligibility due to failure to cooperate with a verification request by a person **outside** the group. *Id.*, p. 5 (bold print in original).

I find that, in this case, the third party is Claimant's son's employer, the verification request was made by Claimant, and the third party failed to cooperate by DHS' deadline. I find this is exactly the type of situation that BAM 105 is designed to protect a claimant against. I find that DHS was, in fact, required *not* to terminate benefits because of lack of third-party verification. I find that DHS erred by not asking Claimant for the information and using its best judgment to estimate an average monthly wage in this case.

Third, I find and conclude that DHS erred when it failed to recognize that Claimant was fully cooperating with DHS, as required by BAM 105, p. 5 ("Clients must cooperate..."). I determine that, once a client has cooperated, DHS is obligated to extend itself to meet the needs of the client. If I were to find otherwise, then the significance of client cooperation would essentially be nil.

I find and conclude, based on Claimant's written statement and all of the testimony in this case, that she cooperated with DHS to the fullest extent during the Redetermination process. She made phone calls, left messages, came to the office, went to her son's local employer, faxed a form to an out-of-state corporate office, requested an extension of time from DHS, and submitted all of the paperwork she was asked to submit.

In conclusion, therefore, I determine that DHS is REVERSED. DHS is ORDERED to reopen Claimant's FAP benefits and make a calculation of her son's income based on the best information available.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS is REVERSED in this matter. IT IS ORDERED that DHS shall reopen Claimant's FAP benefits, accept Claimant's information regarding her son's wages and hours, and recalculate the eligibility of Claimant's FAP group in accordance with DHS policy and procedures.



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Jan Leventer  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: November 23, 2010

Date Mailed: November 23, 2010

**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:

