

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-30588
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: May 23, 2011
DHS County: Wayne (82-31)

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 May 23, 2011. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant cooperated with DHS in providing DHS with a change of address in regard to her 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 March 1, 2010, Claimant began receiving FAP benefits from DHS.
2. In October 2010, Claimant moved to a new home and communicated her new address to DHS [REDACTED].
3. In February 2011, DHS sent Claimant a Redetermination application requesting current income and expense information. The information was due on March 3, 2011.
4. Claimant did not receive the Redetermination application.

5. Claimant did not submit the Redetermination application by the required deadline.
6. In March 2011, Claimant submitted a second change of address report to DHS to another [REDACTED].
7. In March and April 2011, Claimant went to the DHS [REDACTED] office by appointment to meet with her [REDACTED] and was not allowed to see her [REDACTED].
8. Effective March 31, 2011, DHS terminated Claimant's FAP benefits.
9. On April 15, 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 FAP 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.

BAM, BEM, and RFT 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 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, "Rights and Responsibilities," 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, BAM 105 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 must protect the client's rights. Stated another way, unless the client refuses to cooperate, DHS is obligated to protect client rights. BAM 105 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. In its Hearing Summary, DHS states that Claimant's Redetermination application was not submitted to DHS. I read DHS' statement to mean that DHS is not taking the position that Claimant refused to cooperate in its written Hearing Summary. DHS' testimony at the April 11, 2011, Administrative Hearing was consistent with this position.

I have reviewed all of the evidence and testimony in this case and I find that Claimant cooperated fully with DHS. First, Claimant gave DHS her change of address in October 2010. Then in March 2011, she realized she was not getting DHS' correspondence and informed them a second time that her address was changed. DHS provided no rebuttal to Claimant's testimony.

Based on this record, I find Claimant fulfilled her duty to cooperate and has not forfeited her right to benefits because her address change was not properly processed. Applying BAM 105 to this case, I find and determine that Claimant gave her full cooperation to DHS in providing the documentation requested. I find and determine that DHS has a duty to record the information, thereby protecting client's rights. I find and conclude that in this case, DHS' failure to communicate with Claimant caused a DHS failure to protect her right to FAP benefits.

In conclusion, based on the findings of fact and conclusions of law above, I decide and determine that DHS failed to protect client rights and must be REVERSED in this case.

DHS is ORDERED to reopen and reprocess Claimant's FAP benefits and provide Claimant with all supplemental retroactive benefits to which she is entitled, as of April 1, 2011 or other appropriate date. 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 effective April 1, 2011, or other appropriate date. All steps shall be taken in accordance with DHS policies and procedures.



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

Date Signed: May 26, 2011

Date Mailed: May 26, 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:

