

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

IN THE MATTER OF:
Issue

[REDACTED]

Reg. No.: 2011-35264
No.: 3008
Case No.: [REDACTED]
Hearing Date: June 20, 2011
DHS County: Macomb (36)

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 June 20, 2011. The Claimant appeared and testified. [REDACTED], Assistance Payments Supervisor, 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 2011, DHS provided FAP benefits to Claimant.
2. On April 22, 2011 DHS sent Claimant a Verification Checklist to redetermine her eligibility. The Checklist requested current income and expense information. DHS required the information by May 2, 2011.
3. On May 4, 2011, DHS terminated Claimant's FAP benefits retroactively effective May 1, 2011.
4. On May 17 and May 19, 2011, DHS received Claimant's Verification documents. On May 17, 2011, Claimant filed a Request for a Hearing with DHS. Claimant's Hearing Request states, "Have made & [REDACTED] left several messages to worker. Supplied all requested info twice! [REDACTED]"

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. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

BAM, BEM and RFT are the policies and procedures 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 the Agency must fulfill these duties, and the Agency 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, the Agency must protect client's rights. Stated another way, unless the client refuses to cooperate, the Agency 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 “failed to return verifications.” I read this to mean that DHS is not taking the position that Claimant refused to cooperate. DHS also took this position in testimony at the June 20, 2011 Administrative Hearing. I agree and I find and decide that Claimant has cooperated with DHS. I find that her cooperation requires DHS to determine her benefits and her eligibility, and to protect her rights.

The second manual item applicable in this case is BAM 110, “Application Filing and Registration.” This item states that an additional thirty days must be granted when the client is untimely in regard to redetermination:

FAP Only

If an **untimely** redetermination application (See BAM 210) is the client's fault, record receipt of the redetermination packet as described above and document client fault in Bridges. The standard of promptness is extended 30 days when the household/client is at fault. BAM 110, p. 17 (boldface in original).

This procedure is set forth in greater detail in BAM 210, “Redetermination/Ex Parte Review,” which states:

FAP CLIENT FAILURE TO MEET REDETERMINATION REQUIREMENTS

FAP Only

Delays

When the group is at fault for the delay, you have 30 days to complete the redetermination. If there is no refusal to cooperate and the group complies by the 30th day, issue benefits within 30 days. Benefits are not prorated. BAM 210, p. 13.

I have reviewed all of the evidence and testimony in this case and I find and conclude that Claimant cooperated fully with DHS. DHS agrees that the information Claimant provided is sufficient to verify her previous benefit status, and that if the documents had been submitted in a timely fashion before May 2, 2011, Claimant's FAP benefits would not have been terminated. I find and determine that Claimant is entitled to rely on BAM 110 and BAM 210 in providing a thirty-day period for redetermination delay when the client is at fault, as in this case. I further find that Claimant gave substantial and reasonable cooperation to DHS when she filed her verification documents within three weeks of the DHS deadline.


To summarize, applying BAM 105 to this case, I find and determine that Claimant gave full cooperation to the Agency in providing the documentation requested. I find and determine that the Agency has a duty to accept the verification, thereby protecting the client's rights.

Even if the above policies and procedures were inapplicable here, I find and decide also that DHS' action in this case violated the BAM 110 requirement that the customer must be given ten days to provide verification. In this case the verification is dated April 22, 2011 with a deadline of May 2, 2011. This period is exactly ten calendar days, but, DHS terminated Claimant's benefits effective May 1, 2011. DHS, by this procedure, denied Claimant May FAP benefits to which she remained entitled through May 2, 2011, the deadline named above. DHS should not have terminated Claimant until June 1, 2011, if DHS were correctly applying its policy and procedure, because DHS does not have authority to terminate benefits during a ten-day verification period. BAM 110, p. 5; see also, BAM 115, p. 19 ["FAP Only – The group is eligible for a specific benefit period (in calendar months) with a begin and end date."]

In conclusion, based on the findings of fact and conclusions of law above, I find and conclude that DHS erred in that it failed to protect the client's right to benefits. DHS is REVERSED. DHS is ORDERED to reinstate and reprocess Claimant's previous FAP benefit case and provide Claimant with all supplemental retroactive benefits to which she is entitled as of May 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 reinstate and reprocess Claimant's FAP benefits and provide her with all supplemental retroactive benefits to which she is entitled effective May 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: June 21, 2011

Date Mailed: June 22, 2011

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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/cl

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