

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-35575  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: June 22, 2011  
Wayne (18)

**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 22, 2011. The Claimant appeared and testified. [REDACTED] Assistance Payments Supervisor, and [REDACTED] Eligibility Specialist, appeared and testified on behalf of the Department of Human Services (DHS).

**ISSUE**

Whether Claimant refused to cooperate with DHS in providing income verification in support of his Redetermination 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 Claimant with FAP benefits.
2. On May 10, 2011, Claimant submitted a Verification Checklist to DHS with incomplete income and employment information.
3. On May 20, 2011, DHS issued a Notice of Case Action terminating Claimant's FAP benefits effective June 1, 2011.
4. On May 25, 2011, Claimant filed a Request for a Hearing with DHS.

5. At the Administrative Hearing on June 22, 2011, Claimant testified that he receives \$200 every other month in charitable donations and approximately \$600-800 per month in income as a cab driver.
6. At the Administrative Hearing on June 22, 2011, Claimant testified that he intends to cooperate with the Department by providing a statement of income.

### **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. Department 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).

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.

Also, pursuant to BAM 130, "Verification and Collateral Contacts," DHS is required to use "the best available information" to determine eligibility and benefit allotments. Also, DHS should never use a third party's failure to provide information as the basis for refusing FAP benefits to a customer. BAM 105, p. 5.

Finally, BAM 130, p. 6 requires DHS to give Claimant a reasonable opportunity to resolve any discrepancy between his statements and information from another source before determining eligibility. BAM 130, p. 6.

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, "Customer failed to provide adequate verification (a amount of monthly contribution)." However, at the Administrative Hearing on June 22, 2011, DHS asserted a new position, that the Claimant refused to cooperate. In contrast, Claimant testified to his exact amount of monthly income, and that he was very willing to cooperate by providing sworn letters regarding his income.

I have reviewed all of the evidence and testimony in this case and I find and determine that Claimant cooperated fully with DHS. First, Claimant timely provided some of the information requested in the Verification Checklist, which is evidence that he was willing to cooperate. Further, he submitted a supporting letter from his sister stating that he was receiving charitable donations. I find this demonstrates cooperation on Claimant's part. Claimant also testified that he would write sworn statements immediately following the hearing to evidence his monthly income.

I find and determine that DHS in this case is in a position to use the best available information and also, to use its best judgment, to arrive at a standard, nonfluctuating monthly income for Claimant. DHS may of course seek additional information as to the dates of employment and other data from Claimant, in order to make the standard monthly income figure as accurate as possible. DHS may also wish to assist the customer by initiating a contact with the employer. BAM 130, pp. 2, 5.

I find that DHS' failure to process this Redetermination violated BAM 105 and BAM 130, because Claimant was willing to cooperate and DHS was required to use the best available information in determining eligibility and benefit allotments. Given the religious concerns regarding charitable donations, which Claimant testified to during the Administrative Hearing, DHS should consider the Claimant's sworn written statements

2011-35575/JL

regarding income. Further, DHS violated BAM 130 by denying the Claimant benefits because of an alleged discrepancy in the letter provided by a third party without first giving Claimant a reasonable opportunity to resolve the claimed discrepancy.

In conclusion, as Claimant was fully cooperative and did not refuse 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. DHS is REVERSED. DHS is ORDERED to reinstate and reprocess Claimant's FAP benefits and provide Claimant with all supplemental retroactive benefits to which he is entitled as of June 1, 2011 or other appropriate date.

### **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 him with supplemental retroactive benefits to which he is entitled as of June 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 23, 2011

Date Mailed: June 23, 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/cl

cc:

