

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-36362  
Issue No. 3008  
Case No. [REDACTED]  
Hearing Date: June 30, 2011  
Wayne (76)

**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's request for a hearing. After due notice, a telephone hearing was held on June 30, 2011. The Claimant appeared and testified. [REDACTED], Assistance Payments Worker, and [REDACTED] Assistance Payments Supervisor, appeared and testified on behalf of the Department of Human Services (DHS).

**ISSUE**

Whether Claimant cooperated with DHS' Office of Child Support (OCS) as a requirement of receiving 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 September 24, 2010, DHS' Office of Child Support issued a Cooperation Notice to Claimant, stating she was in cooperation with OCS child support and paternity enforcement requirements.
3. In December, 2010, DHS sent Claimant a six-month review packet requesting current information.

4. On December 10, 2010, Claimant hand-delivered the six-month review package and signed the DHS lobby sign-in book to verify that she submitted the material.
5. In January, 2011, DHS sent Claimant a Notice of Case Action terminating her FAP benefits effective February 1, 2011. The Notice is not in evidence.
6. In May, 2011, Claimant reapplied for FAP benefits.
7. On May 31, 2011, Claimant filed a Request for a Hearing with DHS.
8. On June 21, 2011, DHS denied Claimant's application for the written reason that Claimant was not in compliance with the Office of Child Support.

### **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](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.

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 and also at the Administrative Hearing, DHS does not assert that Claimant refused to cooperate. I agree, and I find and decide that Claimant fully cooperated with DHS. I find that her cooperation requires DHS to determine her benefits and her eligibility, and to protect her rights.

I have reviewed all of the testimony and evidence in this case as a whole. I find and conclude that the September 24, 2010 Notice of Cooperation is credible evidence that Claimant was in full cooperation with OCS and that her FAP benefits were terminated in error effective February 1, 2011. Accordingly, I find that DHS has a duty to protect client rights when an error occurs, and DHS' action must be reversed.


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 February 1, 2011 or other appropriate date. All steps shall be taken in accordance with 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 February 1, 2011 or other

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appropriate date. 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: June 30, 2011

Date Mailed: June 30, 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

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