

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-40346
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 22, 2011
DHS County: Wayne (82-17)

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, which govern the administrative hearing and appeal process, and Claimant's request for a hearing. After due notice, a telephone hearing was held on August 22, 2011, in Detroit, MI. Claimant appeared and testified. [REDACTED] appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS terminated Claimant's Food Assistance Program (FAP) benefits in accordance with its policies and procedures?

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 February 28, 2011, DHS issued a Verification Checklist to Claimant requesting that current income information be provided to DHS by March 5, 2011.
3. On March 30, 2011, DHS terminated Claimant's FAP benefits.
4. On April 22, 2011, Claimant filed a Request for Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the United States Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. 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.

The DHS manuals contain the policies and procedures DHS officially created for its own use. While the DHS policies and procedures are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. The manuals must be consulted in order to see what policies apply in this case. After setting forth what the applicable policies are, an analysis as to how they apply to the facts of this case will be presented.

BAM 130, Verification and Collateral Contacts," is the applicable Item in this case. BAM 130 requires DHS to allow ten calendar days to respond to a FAP verification request. Applying this policy to the facts of this case, it is clear that DHS erred in allowing Claimant only five days (from February 28-March 5), and not ten days, to respond to its request for verification. BAM 130, p. 5.

In conclusion, based on the findings of fact and conclusions of law above, 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 she is entitled as of March 30, 2011.

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:

1. Initiate procedures to reinstate and reprocess Claimant's FAP benefits;

2011-40346/JL

2. Provide her with all supplemental retroactive benefits to which she is entitled effective March 30, 2011.

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: August 23, 2011

Date Mailed: August 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/pf

cc:

