

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

IN THE MATTER OF:

[REDACTED]
[REDACTED] **INE**
[REDACTED]

Reg. No.: 2011-43978
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 17, 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, and Claimant's request for a hearing. After due notice, a telephone hearing was held in Detroit, Michigan, on August 17, 2011. The Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS reduced Claimant's Food Assistance Program (FAP) benefits in accordance with DHS 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 Claimant with FAP benefits.
2. On July 2, 2011, DHS issued a Notice of Case Action stating that Claimant's FAP would be reduced effective July 1, 2011.
3. On July 12, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code

Rules 400.3101-400.3131. DHS' FIP policies and procedures 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 DHS officially created for its own use. DHS manuals are not laws created by the U.S. Congress or the Michigan Legislature, but they constitute legal authority which DHS must follow. The manuals contain the policy that applies in this case. After setting forth what the applicable policy is, it will be determined whether it was in fact followed in this case.

In the DHS Hearing Summary, DHS gives BEM 255, "Child Support," as the legal basis for its action. At the hearing, DHS presented no evidence or testimony to support its conclusion that Claimant was not cooperating with the DHS Office of Child Support (OCS). In fact, there is no Notice of Noncooperation in the record to establish the date of noncooperation in this case.

To the contrary, Claimant gave abundant testimony regarding her concerted efforts to reach OCS and to pursue child support enforcement efforts on her own.

BEM 255 states that DHS' Philosophy is as follows:

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255, p. 1.

Next, the DHS' Policy is stated in BEM 255 as follows:

The head of household and the parent of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. *Id.* (bold print added for emphasis.)

Based on all of the testimony and the evidence in this case as a whole, it is determined that Claimant was in full cooperation with OCS.

DHS erred in this case in finding that Claimant was noncooperative. DHS erred in failing to follow its policy in BEM 255. DHS failed to issue a Notice of Noncooperation to Claimant. DHS' actions in this case violate the DHS Philosophy by failing to acknowledge the extent to which the children's needs were being met by the parent in this family group.

In conclusion, based on the findings of fact and conclusions of law above, DHS is REVERSED. IT IS HEREBY ORDERED that DHS shall recalculate and reprocess Claimant's FAP benefits and issue any supplemental retroactive payments to Claimant to which she is entitled. 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, finds that DHS' action was erroneous and shall be REVERSED. IT IS ORDERED that DHS shall:

1. Initiate procedures to recalculate and reprocess Claimant's FAP benefits;
2. Initiate procedures to provide all retroactive supplementary benefits to Claimant to which she is entitled.

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 18, 2011

Date Mailed: August 22, 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.

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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:

