

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-46630
Issue Nos.: 3008, 5008
Case No.: [REDACTED]
Hearing Date: September 1, 2011
DHS County: SSPC-East (97-98)

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 September 1, 2011, in Detroit, MI. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS denied Claimant's Food Assistance Program (FAP) and State Emergency Relief (SER) application 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. On April 20, 2011, Claimant applied for FAP and SER benefits with DHS.
2. On April 28, 2011, Claimant verbally withdrew her application for FAP and SER.
3. Also on April 28, 2011, DHS issued an Application Notice denying Claimant's application.
4. On August 2, 2011, Claimant filed two Requests 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.

SER was established by 2004 Michigan Public Acts 344. The SER program is administered pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.7001-400.7049. DHS' policies and procedures are found in the Emergency Relief Manual (ERM).

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 105 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 of BAM 105, it 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).

BAM 105 means that DHS must fulfill these duties and 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, BAM 105 means that as long as the client is cooperating, DHS can and should be flexible in its requests for verification. On page 5, it 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.

DHS asserts that Claimant withdrew her application, and Claimant testified that this is correct. At the hearing, Claimant presented no evidence to show that there was any reason for DHS not to accept the withdrawal of her application. It is found and concluded that Claimant's withdrawal of her application is in effect a refusal to cooperate with the DHS application process. Accordingly, it is found and concluded that DHS acted properly in accepting Claimant's withdrawal request.

In conclusion, based on the above findings of fact and conclusions of law, it is decided and determined that DHS acted correctly in its denial of Claimant's application for FAP and SER benefits. DHS acted in accordance with its policies and procedures and is AFFIRMED. DHS need take no further action with regard to this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is AFFIRMED. DHS need take no further action in this matter.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 7, 2011

Date Mailed: September 8, 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

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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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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:

