

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-24560
Issue Nos.: 1005, 3008
Case No.: [REDACTED]
Hearing Date: May 9, 2011
DHS County: Wayne (82-41)

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 May 9, 2011. Claimant appeared and testified. [REDACTED], and [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant refused to cooperate with DHS in providing change of address information for the Family Independence Program (FIP) and the Food Assistance Program (FAP)?

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, Claimant received FIP and FAP benefits.
2. On October 21, 2010, Claimant moved from [REDACTED] in Detroit.
3. Claimant testified that within one week of the move, she contacted DHS by phone but, although she was unable to reach her Specialist, she did not leave voice mail messages.

4. On November 12, 2010, DHS sent Claimant a Verification Checklist with a due date of November 22, 2010. It was not returned.
5. On or about November 23, 2010, DHS sent a Notice of Case Action to Claimant notifying her that effective January 1, 2011, her benefits would be terminated.
6. After November 23, 2010, Claimant called to inquire about her next redetermination. DHS failed to inform her that her benefits were terminated and advised her that she would be receiving a redetermination in a timely fashion.
7. Effective December 31, 2010, DHS terminated Claimant's FIP benefits.
8. Effective January 1-10, 2011, DHS terminated Claimant's FAP benefits.
9. On January 11, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. 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.

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 MACR 400.3001-400.3015. DHS' policies are found in BAM, BEM and RFT. *Id.*

The manuals are the policies and procedures that 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 (boldface in original).

I read this opening section of BAM 105 to mean that DHS must fulfill these duties, and DHS 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, DHS must protect client rights. Stated another way, unless the client refuses to cooperate, DHS 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.

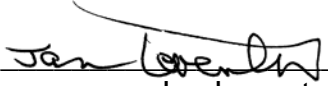
Having identified the relevant legal authority for my decision, I now proceed to my analysis of how the law applies to the facts of the case at hand. At the outset, I note there is nothing in the record to indicate that Claimant refused to cooperate. To the contrary, having reviewed all of the evidence and testimony in this case, I find and determine that Claimant fully cooperated with DHS.

I find and determine that DHS, on the other hand, at first misinformed Claimant as to the status of her case and advised her that she would be receiving a redetermination in a timely fashion. Then, DHS failed to call Claimant back to correct the error. It was only through Claimant's own efforts to find out the status of the redetermination that she learned her address had not been corrected. Based on this evidence, I find and determine that DHS' error caused an illegal termination of Claimant's benefits. I find that DHS failed to protect the client's right to benefits in BAM 105, and a remedy is appropriate.

In conclusion, based on the findings of fact and conclusions of law above, I decide and determine that DHS committed error in terminating Claimant's FIP and FAP benefits. DHS is REVERSED. DHS is ORDERED to reopen and reprocess Claimant's FIP and FAP benefits and provide Claimant with the supplemental retroactive benefits to which she is entitled as of January 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 reopen and reprocess Claimant's FIP and FAP benefits and provide her with the supplemental retroactive benefits to which she is entitled effective January 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: May 11, 2011

Date Mailed: May 16, 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 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

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