

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-29597
Issue Nos.: 2006, 3008
Case No.: [REDACTED]
Hearing Date: May 11, 2011
DHS County: Wayne (82-19)

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 11, 2011. Claimant appeared and testified. [REDACTED] appeared and testified as a witness for Claimant. [REDACTED], appeared and testified for the Department of Human Services (DHS). [REDACTED], was also present at the hearing.

ISSUE

Whether Claimant cooperated with DHS in providing verification to support her Application for Food Assistance Program (FAP) and Medical Assistance (MA or Medicaid) 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 about January 2011, Claimant applied for FAP and Medicaid benefits at DHS.
2. On January 25, 2011, DHS denied Claimant's application.
3. Also on January 25, 2011, DHS sent Claimant a Verification of Employment form, requesting information about Claimant's husband's income. DHS requested that Claimant provide verification by February 4, 2011.

4. Claimant called DHS three or four times, but the Specialist's voice mailbox was full and Claimant could not leave messages for her.
5. On February 24, 2011, Claimant filed a Request for a Hearing with DHS.

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. 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.

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the U.S. Code of Federal Regulations. DHS administers MA pursuant to MCL 400.10 *et seq.* and MCL 400.105. 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's 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.

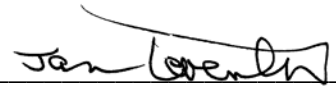
I have reviewed all of the evidence and testimony in this case as a whole. I find and determine that DHS erred by denying Claimant's application on January 25, 2011, *the same day* DHS asked Claimant to provide verification of her husband's income, and gave her until February 4, 2011, to do so. I find and determine that in this case, DHS failed to protect client rights because DHS denied benefits before it even considered Claimant's income. DHS, by failing to process her application, totally denied Claimant's right to apply. I find and decide DHS acted illegally in failing to protect the client's right to apply, and a remedy shall be provided.

Further, I find and determine that, in fact, Claimant fully cooperated with DHS in this case, and she is entitled to DHS protection of her right to benefits. I note that DHS itself is not taking the position that Claimant refused to cooperate, either in writing in the Hearing Summary, or in its testimony at the hearing.

In conclusion, based on the findings of fact and conclusions of law above, I REVERSE DHS' action in this case and reinstate Claimant's application. DHS shall reopen and reprocess Claimant's FAP and MA application, allowing up to three appropriate extensions of time if needed for Claimant to provide income verification. DHS shall provide all supplemental retroactive benefits to Claimant to which she is entitled as of the date of her application or other appropriate date.

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 and MA application, provide her with up to three extensions of time for submission of verification, and provide Claimant with all supplemental retroactive benefits to which she is entitled effective as of the date of her application 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 12, 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

cc:

