

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-31891  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: May 31, 2011  
DHS County: Wayne (82-15)

**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 31, 2011. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

**ISSUE**

Whether Claimant cooperated with DHS in providing verification of income and rent for a DHS Redetermination of his eligibility for 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 2011, DHS provided FAP benefits to Claimant.
2. In about February 2011, Claimant applied for State Emergency Relief (SER) benefits concerning a utility shutoff. Claimant's eligibility for SER is not at issue in this case.
3. Claimant submitted income and expense information to DHS, and spoke to his DHS Specialist numerous times.
4. Claimant assumed DHS would use his verifications for all purposes for which they were required.

5. On March 2, 2011, Claimant did not receive a Redetermination interview telephone call from DHS.
6. On March 2, 2011, DHS issued a Notice of Missed Interview requesting that Claimant call DHS before March 31, 2011, to reschedule the interview, or his benefits would be terminated.
7. On March 31, 2011, DHS terminated Claimant's FAP benefits.
8. On April 26, 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 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](http://www.michigan.gov/dhs-manuals).

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 the 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 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).

I read this opening section of BAM 105 to mean 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, I read BAM 105 to mean 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.

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. DHS asserts that Claimant failed to provide DHS with verification of income and expenses. In this case, DHS is not taking the position that Claimant refused to cooperate, either in its written Hearing Summary or at the May 31, 2011, Administrative Hearing.

I have reviewed all of the evidence and testimony in this case as a whole. I find and determine that Claimant did not refuse to cooperate with DHS. I find and determine that Claimant exhibited substantial cooperation when he submitted his income and expenses twice and spoke with his DHS Specialist on numerous occasions. It is at this point in the history of this case where I find and determine that DHS failed to protect client rights.

It is at this point in time, when Claimant cooperated with DHS, that DHS failed to utilize the verification in both of the programs in which Claimant was involved. Claimant had ongoing FAP benefits and a pending SER application, in the same office, but DHS failed to coordinate these situations in a manner to protect client rights. Stated in other words, DHS should have utilized Claimant's documents for both programs. I find and conclude that DHS erred in failing to recognize Claimant's cooperation and respond by protecting his right to benefits. DHS erred and a remedy shall be provided to Claimant.

In conclusion, based on the findings of fact and conclusions of law above, I decide and determine that DHS failed to prove by clear and convincing evidence that Claimant

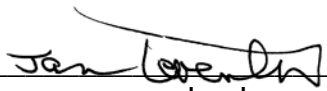
2011-31891/JL

refused to cooperate. DHS is REVERSED because of the error in this case, i.e., failing to act on Claimant's cooperation. BAM 105.

DHS is ORDERED to reinstate and reprocess Claimant's FAP Redetermination and provide him with all supplemental retroactive benefits to which he is entitled. All steps shall be taken in accordance with all 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 reinstate and reprocess Claimant's FAP benefits and provide him with all supplemental retroactive benefits to which he is entitled. All steps shall be taken in accordance with DHS policies and procedures.

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

Date Signed: June 7, 2011

Date Mailed: June 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 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.

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cc:

