

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-36409
Issue No. 3008
Case No. [REDACTED]
Hearing Date: July 6, 2011
WAYNE (82)

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 on July 6, 2011 in Detroit. The Claimant did not appear. [REDACTED] Authorized Hearing Representative, appeared and testified on behalf of Claimant. Darling is the Office Coordinator for AHS (Advocating, Helping and Serving) Community Services in the city of Wayne. [REDACTED] Eligibility Specialist, appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant cooperated with DHS verification procedures for Food Assistance Program (FAP) 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. At all times pertinent to this matter, AHS has been a nonprofit corporation licensed under the requirements of the U.S. Internal Revenue Service regulation 501(c)(3).
2. Claimant's Authorized Representative Darling faxed the AHS 501(c)(3) documents to DHS in October, 2009 (Claimant's FAP application), October, 2010 (FAP Redetermination Application), and on February 24, 2011 (resubmission for the Redetermination Application).

3. DHS never received, or misplaced, or lost, these documents.
4. Beginning in 2009, Claimant received FAP benefits of \$200 per month.
5. On November 16, 2010, DHS reduced Claimant's FAP benefits to \$16 per month.
6. On December 1, 2010, DHS terminated Claimant's FAP benefits.
7. Claimant did not receive FAP benefits from December, 2010-March, 2011, a four-month period.
8. On May 19, 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. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT). These manuals are available online at 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 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 the agency must fulfill these duties, and the agency 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, the agency 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 AHS' tax-exempt status. In this case DHS is not taking the position that Claimant refused to cooperate, either in its written Hearing Summary or at the July 6, 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. As Claimant has fulfilled his duty to cooperate with the Redetermination application process I now consider whether DHS failed to protect the client's rights.

I find and determine that DHS failed to preserve Claimant's 501(c)(3) documentation, thereby causing the reduction and termination of Claimant's benefits. I find that agency error in this matter constitutes a failure to protect client rights and must be remedied.

In conclusion, based on the findings of fact and conclusions of law above, I decide and determine that DHS failed to protect Claimant's right to benefits as required by BAM 105. DHS erred and a remedy shall be provided to Claimant. DHS is REVERSED.


DHS is ORDERED to reinstate and reprocess Claimant's FAP benefits and provide Claimant with all supplemental retroactive benefits to which he is entitled. The Agency shall redetermine Claimant's FAP benefit for November, 2010, and it shall also redetermine what, if any, FAP benefits Claimant is entitled to for the four-month period of December, 2010-March, 2011. 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

2011-36409/JL

reinstate and reprocess Claimant's FAP benefits and provide him with all supplemental retroactive benefits to which he is entitled for the five months of November, 2010-March, 2011. 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: July 11, 2011

Date Mailed: July 11, 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.

JL/cl

cc:

