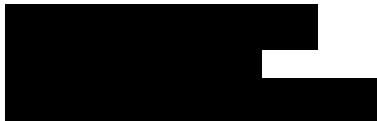


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 2011-36762
Issue No. 3008
Case No. [REDACTED]
Hearing Date: July 6, 2011
MACOMB (12)

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 appeared and testified. [REDACTED], Eligibility Specialist, appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant cooperated with DHS as a requirement of receiving 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. In 2011, DHS provided FAP benefits of \$200 per month to Claimant.
2. On or about January 18, 2011, Claimant applied for Medical Assistance (Medicaid) benefits. As part of the Medicaid application process, DHS requested verification of employment and verification of self-employment income. DHS requested the information be provided by January 28, 2011.
3. On February 4, 2011, Claimant submitted the DHS Verification of Employment form, signed by himself, stating he was laid off from his job on September 30, 2010. Also on February 4, 2011, Claimant submitted the DHS Self-Employment Income and Expense Statement, which contained information for only one month.

4. Also on February 4, 2011, DHS issued a Notice of Case Action closing Claimant's FAP benefits effective March 1, 2011.
5. On an unknown date, Claimant submitted a letter verifying self-employment income of \$50 per week for maintenance work he performed at a church facility.
6. Claimant's letter from the church is not in the DHS file.
7. On February 14, 2011, Claimant filed a Request for a Hearing with DHS.
8. At the Administrative Hearing on July 6, 2011, Claimant submitted in evidence a new letter from the church verifying his employment and rate of pay.

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. 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.

BAM, BEM and RFT are the policies and procedures 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 (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 must protect client's rights. Stated another way, unless the client refuses to cooperate, the Agency 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. In its Hearing Summary and also at the Administrative Hearing, DHS does not assert that Claimant refused to cooperate. I agree, and I find and decide that Claimant did not refuse to cooperate with DHS. I find and determine that Claimant substantially complied with the January 28, 2011 deadline. I find and conclude that the submission of the two DHS forms on February 4, 2011 constitutes substantial cooperation with DHS' verification requirements. I find and determine that Claimant's documents should have been reviewed for completeness, and to the extent that they were incomplete, DHS should have granted Claimant an extension of time in which to provide the additional information needed to complete the verification process. I find that Claimant's substantial cooperation requires DHS to determine his benefits, to determine his eligibility, and to protect his rights.

I have reviewed all of the testimony and evidence in this case as a whole. I find and determine that Claimant's FAP benefits were closed in error on March 1, 2011. In order to protect the client's rights in this case, DHS' action must be reversed.

In conclusion, based on the findings of fact and conclusions of law above, I find and conclude that DHS erred in that it failed to protect the client's right to benefits. DHS is REVERSED. DHS is ORDERED to reinstate and reprocess Claimant's previous FAP benefits and provide Claimant with all supplemental retroactive benefits to which he is entitled as of March 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

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reinstate and reprocess Claimant's FAP benefits and provide him with all supplemental retroactive benefits to which he is entitled effective March 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: 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:

