

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-3893
Issue Nos.: 1010, 5013
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 1, 2010
DHS County: Wayne (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 December 1, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly processed Claimant's June 29, 2009, Family Independence Program (FIP) and Claimant's November 2009 State Emergency Relief (SER)/FIP applications?

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. Claimant testified that on June 29, 2009, she applied for FIP benefits with DHS.
2. Claimant testified that she waited forty-five days for her application to be processed.
3. Claimant testified that on or about August 15, 2009, she contacted DHS to check on the status of her application and was told that, because it was a FIP application, it was necessary to transfer the case to another DHS case worker.
4. Claimant testified that she waited forty-five days more for her case to be processed.

5. Claimant testified that on or about September 30, 2009, she contacted DHS to check on the status of her application for a second time, and was told it was not yet referred to a FIP caseworker.
6. Claimant testified that on or about November 1, 2009, she filed a second application for FIP benefits and also included a request for SER benefits on her application.
7. Claimant testified that in December 2009, she went to DHS every week to check on the status of her application, but no one could give her any information.
8. Claimant testified she was evicted from her home.
9. In the spring of 2010, Claimant received a letter from DHS informing her they were still working on her FIP application.
10. In May 2010, Claimant filed an application for FIP benefits and, as a result of this application, she currently receives FIP benefits in an appropriate amount.
11. On May 20, 2010, Claimant filed a notice of hearing request with DHS regarding her June 29, 2009 application.

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 the FIP program 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). The manuals are available online at www.michigan.gov/dhs-manuals.

SER was established by 2004 Michigan Public Acts 344. The SER program is administered pursuant to MCL 400.10 *et seq.*, and MACR 400.7001-400.7049. DHS' policies are found in the Emergency Relief Manual (ERM). *Id.*

The manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan State 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 is, I will examine whether it was in fact followed in this case.

I determine that the applicable manual section in this case is BAM 105, "Rights and Responsibilities." The first section of this manual Item states the Department's Policy as follows:

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).

Now, before I can apply BAM 105 to the case before me, I must first evaluate the reliability of the evidence to which I am applying it. Claimant presented her sworn testimony that she applied twice in 2009, but nothing more to substantiate her testimony, such as documentation or records. I find that Claimant's testimony, without further proof, is insufficient because it is only her word alone that the 2009 applications existed. I find that Claimant's sworn testimony, while it is acceptable as evidence, is only verbal (parol) evidence. I find that, in the absence of some additional proof, I cannot find as fact that the 2009 applications were in existence. I decide and determine that the record in this case does not contain clear and convincing evidence that Claimant applied in 2009.

Applying BAM 105 now to the facts of this case, I find that DHS did not fail in its responsibilities to Claimant. First, DHS did not fail to determine eligibility; second, DHS did not fail to calculate the level of benefits to which Claimant was entitled; and third, DHS did not fail to protect Claimant's rights.

I decide in this matter that DHS is AFFIRMED. IT IS ORDERED that DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines and concludes that DHS is AFFIRMED. IT IS ORDERED that DHS need take no further action in this matter.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 6, 2010

Date Mailed: December 7, 2010

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:

