

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-44746
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 22, 2011
DHS County: Wayne (82-43)

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, which govern the administrative hearing and appeal process, and Claimant's request for a hearing. After due notice, a telephone hearing was held on August 22, 2011, in Detroit, MI. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS terminated Claimant's Food Assistance Program (FAP) benefits in accordance with policy and procedure?

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 April 13, 2011, DHS sent Claimant a Redetermination application requesting current employment and income information. DHS requested the information be returned to them by April 22, 2011.
3. The DHS log shows that the completed Redetermination application form was not received.
4. The DHS closed and open files for Claimant do not contain the completed Redetermination form.

5. On May 2, 2011, DHS sent Claimant a Notice of Missed Interview, stating that her telephone interview did not occur on that date, and requesting that she reschedule it within thirty days if she so desired.
6. On July 1, 2011, DHS terminated Claimant's FAP benefits.
7. On July 26, 2011, Claimant filed a Request for 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.

The DHS manuals contain the policies and procedures DHS officially created for its own use. While the DHS policies and procedures are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. The manuals must be consulted in order to see what policies apply in this case. After setting forth what the applicable policies are, an analysis as to how they apply to the facts of this case will be presented.

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).

BAM 105 requires that DHS 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, BAM 105 means 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 also 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.

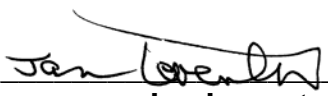
Having identified the relevant legal authority for my decision, an analysis now follows as to how the law applies to the evidence at hand. There is no proof in the record in this case, other than Claimant's testimony, that Claimant presented the Redetermination application form to DHS. On the other hand, the DHS log and the closed and open DHS files indicate the Redetermination was never received.

Based on the evidence in the record, it is decided and determined that DHS acted properly and is AFFIRMED. While it is certainly possible that DHS received the Redetermination but subsequently misplaced or lost it, without further evidence to support such a conclusion, that conclusion would be inappropriate.

In conclusion, based on the findings of fact and conclusions of law above, it is decided and concluded that DHS is AFFIRMED. DHS need take no further action in this case.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is AFFIRMED. DHS need take no further action in this case.



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

Date Signed: August 23, 2011

2011-44746/JL

Date Mailed: August 23, 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/pf

cc:

