

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.: 2010-54742
Issue Nos.: 1005, 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 8, 2010
DHS County: Wayne (55)

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 8, 2010. The Claimant appeared and testified. [REDACTED]

[REDACTED], appeared and testified on behalf of the Department of Human Services (DHS). [REDACTED], DHS, was also present at the hearing.

ISSUE

Whether DHS followed policy and procedure in terminating Claimant from the Family Independence Program (FIP) and 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. On or about January 1, 2010, DHS awarded FIP benefits to Claimant.
2. On July 8, 2010, Claimant's mother passed away.
3. Claimant's medications were increased to help her cope with her mother's death.
4. On July 14, 2010, DHS sent Claimant a Redetermination package requesting current information.

5. Claimant did not receive the Redetermination package.
6. On August 20, 2010, DHS issued a notice to Claimant that her benefits would be terminated as of August 31, 2010.
7. On August 27, 2010, Claimant filed a Request for a Hearing with DHS.
8. On August 31, 2010, DHS terminated all or part of Claimant's FIP and FAP benefits.

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). These manuals are available online at www.michigan.gov/dhs-manuals.

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 the FAP program pursuant to MCL 400.10 *et seq.*, and MACR 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). *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 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.

The policy that I find to be applicable to this case was cited to me by the Department in the Hearing Summary: BAM 105, "Rights and Responsibilities." This manual Item states that clients have the responsibility to cooperate with DHS by providing eligibility information.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. BAM 105, p. 5.


Cooperation is the key idea in this policy, and I find that Claimant did not refuse to cooperate but, in fact, had a significant family event, the death of her mother, that occurred immediately before the DHS Redetermination package would have been sent to her. Her motivation to cooperate is evidenced by her immediate response to the

Notice of Case Action. When Claimant received the Notice of Case Action in August she made it her business to file the hearing request before the deadline.

I find that in this situation, DHS erroneously closed Claimant's FIP and FAP benefits. DHS shall be REVERSED. IT IS ORDERED that Claimant's case shall be reopened and reinstated, and Claimant shall receive an extension of time in which to complete the Redetermination packet. IT IS ORDERED that Claimant shall receive any and all supplemental FIP and FAP benefits to which she is entitled 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, finds that DHS shall be REVERSED. IT IS ORDERED that DHS shall reopen Claimant's case, Claimant will receive an extension of time in which to submit the Redetermination materials, and Claimant's FIP and FAP benefits shall be supplemented to the appropriate amounts to which Claimant is entitled. All of these requirements shall be implemented in accordance with all DHS policies and procedures.



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

Date Signed: December 13, 2010

Date Mailed: December 14, 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.

2010-54742/JL

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:

