

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.: 2011-13724
Issue No.: 1005
Case No.: [REDACTED]
Hearing Date: February 24, 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, and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on February 24, 2011. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS denied Claimant's Family Independence Program (FIP) benefits in accordance with DHS 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. On November 5, 2010, Claimant applied for FIP benefits with DHS.
2. Claimant stated on her application that she was unable to work and could not participate in the Jobs, Education and Training (JET) program.
3. On November 5, 2010, DHS issued a Verification Checklist to Claimant, requesting her daughter's driver's license and Social Security card and that Claimant submit the following: Health Information Release for Employment Services, Activities of Daily Living form, and the Medical Examination Report. The due date for the documents was set for November 15, 2010.

4. After November 5, 2010, DHS received Claimant's daughter's identification documents and the Health Information Release for Employment Services.
5. After November 5, 2010, Claimant gave the Medical Examination Report to her doctor and the doctor agreed to send in the report.
6. Claimant's Medical Examination report was never received by DHS.
7. On December 1, 2010, Claimant submitted the Activities of Daily Living form to DHS.
8. On December 17, 2010, DHS issued an Application Notice denying Claimant's application for FIP benefits.
9. On December 28, 2010, Claimant filed a Request for Hearing with DHS.

CONCLUSIONS OF LAW

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 United States Code 601, *et seq.* DHS administers the FIP program pursuant to MCL 400.10, *et seq.*, and Michigan Administrative Code Rules 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.

The administrative manuals are the policies and procedures DHS officially created for its own use. While the DHS 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 is, I will examine whether it was in fact followed in this case.

In this case, DHS cites three manual Items in the Hearing Summary it submitted into evidence at the Administrative Hearing. These Items are BAM 110, "Application Filing and Registration;" BAM 115, "Application Processing;" and BAM 130, "Verification and Collateral Contacts." DHS prepared these citations for the Administrative Hearing to establish the legal authority for its actions. I reviewed these sections, and I do not find a relevant policy or procedure in them that will assist me in deciding this case.

DHS did not cite BAM 105, "Rights and Responsibilities," I find that BAM 105 is the applicable Item in this case. I read BAM 105 to mean that as long as the client is

cooperating, DHS 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. BAM 105, p. 5.

In addition, BAM 105 requires DHS to administer its programs in a responsible manner to achieve the goal of protecting 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.

Id., p. 1 (bold print in original).

I read this opening section of BAM 105 to mean that DHS must 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.

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 it with necessary information in ten days and she is, therefore, ineligible. The information in dispute consists of the Medical Examination Report.

Applying BAM 105 to the case at hand, I find and conclude that Claimant exhibited full cooperation when she submitted her daughter's identification documents, the Health Information Release for Employment Services, and the Activities of Daily Living form. I find and conclude that DHS failed to protect Claimant's rights when it failed to acknowledge her substantial cooperation, consisting of submitting everything except the medical report. I find that DHS' failure to review the file and see that there was substantial cooperation in this case caused DHS to close Claimant's file erroneously without considering that the absence of the medical report could possibly be DHS error of misfiling or losing it. In this situation, I find there was substantial cooperation and

DHS erred in failing to recognize it. I decide and determine that DHS erred in this case and a remedy is appropriate.

In conclusion, based on the above findings of fact and conclusions of law, I find and determine that DHS erred in failing to recognize Claimant's cooperation and protecting her right to apply for benefits. I find that in this case DHS shall be REVERSED.

DHS is ORDERED to reinstate and reopen Claimant's FIP application, accept Claimant's medical report allowing reasonable extensions of time for her to submit it, and providing Claimant with any retroactive benefits to which she is entitled, including a deferral from the JET program. 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 ORDERED that DHS shall reinstate and reprocess Claimant's FIP application, including allowing extension of time to submit the medical report, and determining whether Claimant is eligible for a JET deferral. 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: March 2, 2011

Date Mailed: March 3, 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 90 days of the filing of the original request.

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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:

