

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.: 2011-15245
Issue Nos.: 1025, 2018,
3019, 5022
Case No.: [REDACTED]
Hearing Date: February 17, 2011
DHS County: Wayne (82-35)

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 17, 2011. Claimant appeared and testified. [REDACTED], and [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS denied Family Independence Program (FIP), Medical Assistance (MA or Medicaid), Food Assistance Program (FAP), and State Emergency Relief (SER) benefits to Claimant in accordance with DHS policies and procedures?

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. Beginning in 2008, Claimant received FIP, FAP and MA benefits for herself and two children.
2. On [REDACTED], Claimant gave birth to a son, [REDACTED].
3. On October 30, 2010, the Office of Child Support (OCS) sent a letter to Claimant requesting information about the baby's father.

4. After receiving the OCS letter, Claimant called OCS and left a voicemail message with information about the father.
5. In December 2010, OCS sent a letter to Claimant informing her that she was not compliant with OCS.
6. After receiving the OCS letter, Claimant again left a voicemail message with information about the child's father.
7. On December 4, 2010, DHS issued a Notice of Case Action terminating Claimant's January 2011 FIP benefits for all four persons in the family group, and terminating MA and FAP benefits for Claimant only.
8. Prior to December 22, 2010, Claimant applied for SER benefits for assistance with rent, electricity and gas expenses.
9. On December 22, 2010 DHS issued a Notice of Case Action denying SER benefits to Claimant.
10. The three program terminations and the denial of SER benefits were all for the reason that Claimant was noncooperative with child support requirements.
11. On December 29, 2010, Claimant filed two Requests for Hearing with DHS. In one of her Hearing Requests, Claimant wrote that she provided the father's information in October and again in December.

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 Sec. 60 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. DHS' FIP policies and procedures 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 found in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and MACR 400.3001-400.3015. DHS' FAP policies are found in BAM, BEM and RFT. *Id.*

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the U.S. Code of Federal Regulations. DHS administers MA pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS policies are found in BAM, BEM and RFT. *Id.*

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

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 gives the legal basis for its action in the DHS Hearing Summary it prepared for this Administrative Hearing. I agree with the Department that the manual item that applies to this case is BEM 255, "Child Support."

BEM 255 states that the Department's Philosophy is as follows:

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255, p. 1.

Next, the Department's Policy is stated in BEM 255 as follows:

The head of household and the parent of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. *Id.* (bold print added for emphasis).

I have reviewed all of the testimony and the evidence in this case as a whole. I find and determine that Claimant cooperated at all times with the DHS OCS. The record in this case indicates that Claimant provided the information to DHS three times, once in October and twice in December, 2010. She also offered the information in writing in her Hearing Request.

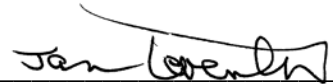
Based on the record before me, I find that DHS erred in this case in finding that Claimant was noncooperative and by terminating and denying FIP, FAP, MA and SER benefits to her. I reach my decision, first, because DHS because the record reflects that Claimant voluntarily assisted DHS four times and, second, because there is nothing in the record to indicate DHS did not receive the calls and messages.

I find and determine that DHS erred in failing to follow its policy in BEM 255. I find that Claimant did not fail to cooperate with any DHS request for paternity and child support information. I further find and determine that DHS' actions in this case violate the Department Philosophy by failing to acknowledge the extent to which the children's needs were being met by the parents in this family group.

I find and determine that DHS is REVERSED. IT IS ORDERED that DHS shall restore and reinstate Claimant's FIP, FAP and MA and benefits to appropriate levels, reopen and process Claimant's SER application, and issue any appropriate supplemental retroactive payments 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' action was erroneous and shall be REVERSED. IT IS ORDERED that DHS shall reinstate Claimant's FIP, FAP and MA and benefits to appropriate levels, reinstate and process her SER application, and provide retroactive supplementary benefits in accordance with DHS policies and procedures.



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

Date Signed: March 1, 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:

