

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.: 2011-15253
Issue Nos.: 1005, 2006
Case No.: [REDACTED]
Hearing Date: February 22, 2011
DHS County: Wayne (82-18)

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 22, 2011. Claimant appeared and testified. [REDACTED], and [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS terminated Claimant's Family Independence Program (FIP) and Medical Assistance (MA or Medicaid) benefits in accordance with DHS policy 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. In 2010, Claimant received FIP and MA benefits from DHS for herself and her two children.
2. On December 2, 2010, DHS conducted a telephone Redetermination meeting with Claimant in order to update her eligibility information.
3. On December 2 or 3, 2010, Claimant personally submitted verification of her [REDACTED] account to her DHS specialist, [REDACTED].
4. DHS misplaced or lost Claimant's [REDACTED] statement.

2011-15253/JL

5. On December 4, 2010, DHS sent Claimant a Verification Checklist, DHS Form 3503, requesting a current bank statement.
6. On December 21, 2010, DHS issued a Notice of Case Action informing Claimant that FIP benefits for herself and her two children and MA benefits for herself only would be terminated on February 1, 2011.
7. On January 19, 2011, Claimant filed a Request for a 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 Manual (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. DHS administers the MA program pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS' policies are found in BAM, BEM and RFT. *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 cites BAM 130, "Verification and Collateral Contacts," in the Hearing Summary DHS prepared for this Administrative Hearing as legal authority for its actions. I reviewed this section, and I do not find a relevant policy or procedure in BAM 130 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. BAM 105 requires DHS to administer its programs in a responsible manner to protect 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.

BAM 105, p. 1 (bold print in original).

I read this opening section of BAM 105 to mean that DHS must fulfill these duties, and the 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 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. *Id.*, p. 5.

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 a current bank statement.

Applying this policy to the case at hand, I find and conclude that Claimant exhibited full cooperation when she submitted her bank statement to her DHS Specialist on December 2 or 3, 2010. I find and conclude that DHS failed to protect client rights when it misplaced or lost Claimant's bank statement. 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 conclude and determine that DHS erred in failing to preserve Claimant's verification documentation. I find that DHS acted incorrectly and is REVERSED. DHS is ORDERED to reinstate and reopen Claimant's FIP and MA benefits, accept the bank statement, process Claimant's Redetermination, and provide Claimant with any

retroactive benefits to which she is entitled, 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 and MA Redetermination application and benefits, accept and process Claimant's bank statements, and provide appropriate supplemental retroactive 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.

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.

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cc:

