

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-29658
Issue Nos.: 2015, 3002, 6019
Case No.: [REDACTED]
Hearing Date: May 26, 2011
DHS County: Wayne (82-76)

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 May 26, 2011. Claimant appeared and testified at the hearing. [REDACTED] appeared as a witness for Claimant. [REDACTED] appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether DHS reduced Claimant's Food Assistance Program (FAP) benefits in accordance with DHS policies and procedures?
2. Whether DHS terminated Claimant's Medical Assistance (MA or Medicaid) benefits in accordance with DHS policies and procedures?
3. Whether DHS terminated Claimant's Child Development and Care (CDC) benefits 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. In 2010, DHS provided Claimant with FAP, MA and CDC benefits.

2. In January 2011, Claimant was employed at [REDACTED], she received court-ordered child support for her daughter, [REDACTED], and she received Unemployment Insurance (UI) benefits.
3. In January 2011, DHS terminated Claimant's MA and CDC benefits, giving no reason for its actions.
4. Also in January 2011, DHS provided Claimant with FAP benefits of only \$156, giving no reason for its action.
5. In February 2011, Claimant ceased working at [REDACTED].
6. On April 11, 2011, Claimant filed a Request for Hearing with DHS.
7. Claimant seeks MA Group 2 Caretaker and CDC benefits from January 2011 to the present and a corrected computation of her FAP benefits from January 2011 to the present.
8. There is no evidence that a pre-hearing conference was offered to Claimant in this case.
9. In its Hearing Summary, DHS failed to state the case actions taken with regard to MA and FAP and the facts which led to the actions. Moreover, DHS stated that the FAP and MA issues were resolved, when in fact they were not resolved.
10. In its Hearing Summary, DHS stated that it terminated CDC benefits because the need for CDC was not verified. However, DHS failed to issue a Notice of Case Action and communicate the reason to Claimant in writing.
11. In its Hearing Summary, DHS failed to cite the official DHS policies which supported its actions.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (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). 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 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.*

CDC was established by Titles IVA, IVE and XX of the U.S. Social Security Act, the U.S. Child Care and Development Block Grant of 1990, and the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. DHS provides CDC benefits to adults and children pursuant to MCL Section 400.14(1) and MACR 400.5001-5015. DHS' CDC policies are found in BAM, BEM and RFT. *Id.*

BAM, BEM and RFT 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.

I determine that the appropriate manual section to apply in this case is BAM 600, "Hearings." Under BAM Item 600,

[c]lients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The department provides an Administrative Hearing to review the decision and determine its appropriateness. This item includes procedures to meet the minimum requirements for a fair hearing.

Efforts to clarify and resolve the client's concerns must start when the hearing request is received and continue through the day of the hearing. BAM 600, p. 1 (boldface in original).

BAM 600 continues on to state:

Hearing Summary

All Programs

Complete an (sic) DHS-3050, Hearing Summary, if the dispute is not resolved at a prehearing conference....

The narrative must include all of the following:

- Clear statement of the case action, including all programs involved in the case action.
- Facts which led to the action.

- Policy which supported the action.

Id., pp. 14-15.

I have reviewed all of the evidence and testimony in this case as a whole. DHS' Hearing Summary gives the following explanation of the case:

A hearing was held on January 26, 2011 regarding FAP and CDC. FAP issue has been resolved with CDC being denied. Ms. Latham (sic) CDC need reason had to be verified. Exhibits included regarding employment. Medical Issue has been resolved.

I find that DHS' Hearing Summary is not a correct or adequate explanation of the official actions taken in this case. There is nothing in the Summary that explains what actions were taken to resolve the Claimant's FAP and MA concerns, and, not surprisingly, at the Administrative Hearing, Claimant testified that they were not resolved. Next, with regard to CDC, although DHS states that verification was needed, then at some point a Notice of Case Action should have been issued to explain this reason to the Claimant in an official manner. Looking at the record before me in this case, I cannot see that DHS ever provided Claimant with that reason.

I find and decide that the department did not follow BAM 600 requirements and failed to provide adequate justification for its actions. With regard to FAP and MA, DHS failed to identify the case actions, the underlying facts, and the DHS policies for its actions, and incorrectly stated that these issues were resolved when in fact they were not resolved. Third, with regard to CDC benefits, I find and conclude that DHS erred in failing to make a determination of need based on accurate information available through The Work Number at the time Claimant applied for CDC.

In conclusion, based on the findings of fact and conclusions of law above, DHS is REVERSED with regard to Claimant's FAP and MA benefits. DHS is ordered to review and recalculate Claimant's FAP benefits from January 1, 2011, to the present, to review the termination of Claimant's MA benefits from January 1, 2011, to the present, and to provide adjustments and supplemental benefits in FAP benefits, and reinstatement of MA, as appropriate. Further, I REVERSE DHS' termination of CDC benefits and order that Claimant's CDC benefits be reviewed from January 1, 2011, to the present and reinstated, if appropriate.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, states that DHS is REVERSED. IT IS HEREBY ORDERED that Claimant's FAP, MA and CDC benefits shall be reinstated, reprocessed, and reviewed, and appropriate corrections and supplemental benefits shall be effected. 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: June 7, 2011

Date Mailed: June 8, 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.

JL/pf

cc:

