

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-30311
Issue Nos.: 1035, 3000
Case No.: [REDACTED]
Hearing Date: May 19, 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) Sections 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on May 19, 2010. Claimant appeared and testified at the hearing. [REDACTED] appeared and testified as Authorized Representative for the Claimant. [REDACTED]

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

ISSUES

1. Whether DHS denied Claimant's application for Family Independence Program (FIP) benefits in accordance with its policies and procedures?
2. Whether Claimant is eligible for Food Assistance Program (FAP) benefits?

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 2011, Claimant received FAP benefits from DHS.
2. On or about February 27, 2011, Claimant applied for FIP benefits.
3. On March 17, 2011, DHS issued medical forms required for Claimant to submit in order to obtain a medical deferral from the JET program.

4. On March 28, 2011, DHS issued a JET Appointment Notice scheduling Claimant to start the JET program on April 11, 2011, at 8:30 a.m.
5. Prior to April 11, 2011, Claimant called two DHS Specialists, [REDACTED], and left messages telling them she was unable to attend on April 11 because she had no transportation and because she had a doctor's appointment that day.
6. Claimant's primary physician refused to complete the DHS medical report.
7. On April 21, 2011, DHS issued a Notice of Case Action denying Claimant's FIP application.
8. Before April 25, 2011, DHS discontinued Claimant's FAP benefits.
9. On April 25, 2011, Claimant filed a Hearing Request with DHS.
10. At the Administrative Hearing on May 19, 2011, Claimant testified that she was satisfied with the FAP benefits she was now receiving from DHS and asked the Administrative Law Judge to dismiss the FAP complaint from her case.

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 FIP 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 contained 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' 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.

Under BAM Item 600, "Hearings," clients have the right to contest any DHS decision affecting eligibility or benefit levels whenever they believe the decision is illegal. DHS provides an Administrative Hearing to review the decision and determine if it is appropriate. DHS policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when DHS receives a hearing request and continue through the day of the hearing. BAM 600.

In this case, DHS denied FIP benefits to Claimant because she failed to produce verification of her medical condition. I must determine whether the denial of FIP benefits to Claimant was in accordance with DHS policies and procedures.

BAM 815, "Medical Determination and Obtaining Medical Evidence," is the DHS procedure for developing medical evidence for DHS cases. BAM 815 addresses the situation where a FIP client cannot obtain medical evidence from her medical provider.

FIP, SDA, MA and FAP Only

Allowable payments for obtaining medical evidence include:

- Medical/psychiatric/psychological evaluations.
- Copies of existing medical evidence.
- Certain diagnostic testing including laboratory and x-ray studies.

BAM 815, p. 7.

Also, when the Administrative Law Judge orders a medical examination, prior approval is not required.

The Diagnostic Examination Fee Schedule in RFT 285 lists covered medical services and indicates which ones require prior authorization from the MRT [Medical Review Team] or SSI [Supplemental Security Income] advocate. Prior authorization from the MRT or SSI advocate must be obtained and documented in the medical packet.

Exception: No prior authorization is required for any reason when an (sic) State Office of Administrative Hearings and Rules (SOAHR) administrative law judge has ordered payment for the medical report or procedure. *Id.*, pp. 4, 7 (boldface in original).

Third, DHS is required to assist in scheduling the medical appointment:

Scheduling

Make all arrangements on behalf of the client for a medical exam or other diagnostic tests requested by the MRT or SSI advocate.... Use the

DHS-800, Medical Appointment Confirmation, to notify the client of a scheduled appointment. The DHS-800 tells the client:

- The department will **not** pay for a missed appointment.
- To call the physician, in advance, to reschedule if the client is unable to keep the appointment.
- To call his specialist if assistance is needed in rescheduling the appointment.

Id., p. 8 (boldface in original).

Fourth, there is a procedure for authorizing transportation in BAM 825, “Medical Transportation:”

You must furnish information in writing and orally, as appropriate, to all applicants and to all other individuals who request it acknowledging that medical transportation is **ensured** for transportation to and from medical services providers for MA-covered services.... Payment for medical transportation may be authorized only after it has been determined that it is not otherwise available, and then for the least expensive available means suitable to the client’s needs.

...

Medical transportation is not available to the following, unless it is to obtain medical evidence; see BAM 815:

- -FIP applicants.

BAM 825, p. 1 (boldface in original).

I find and determine that none of the procedures in BAM 815 and BAM 825 were followed in this case, and DHS’ denial of FIP benefits to Claimant was illegal. I find and determine that DHS did nothing to assist Claimant after her physician failed to respond to a request for information. I REVERSE the DHS action in this case and order that Claimant’s application for FIP benefits shall be reinstated and reprocessed in accordance with BAM 815 and 825.

Next, addressing Claimant’s FAP benefits, Claimant testified she no longer wished to pursue this issue at the Administrative Hearing. Accordingly, I DISMISS the FAP issue in this case.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS erred in denying Claimant’s FIP benefits. DHS is ORDERED to reinstate and reprocess Claimant’s FIP application. Claimant’s FAP claim is DISMISSED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is PARTIALLY REVERSED. I T IS ORDERED that DHS shall reinstate and reprocess Claimant's FIP application in accordance with BAM 815 and 825, including an appointment for a DHS-paid medical examination and report and accompanying transportation expenses. IT IS FURTHER ORDERED that Claimant's FAP claim is DISMISSED at the request of the Claimant.

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: May 25, 2011

Date Mailed: May 26, 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:

