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

IN THE MATTER OF:



 Reg. No.
 2011-32268

 Issue Nos.
 2001, 4003

 Case No.
 July 14, 2011

 Wayne (43)
 Wayne (43)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Admi nistrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 a nd 400.37, which govern the administrative hearing and appeal process, and Claim ant's request for a hearing. After due notice, a telephone hearing was held on July 14, 2011 in Detroit. Claim ant appeared and tes tified. Eligibility Specialist, a ppeared and testified on beha If of the De partment of Human Services (DHS). F amily Independenc e Manager, was also present at the hearing.

ISSUE

Whether Claimant cooperated with the DHS Redetermination application process for Medical Assistance (MA or Medicaid) and State Disability Assistance (SDA) 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. At all times pertinent to this matter, Claimant fully cooperated with DHS.
- 2. In 2010, DHS provided Claimant with MA Adult Medical Program (AMP) and SDA benefits.
- 3. On June 1, 2010 DHS terminated Claim ant's MA-AMP and SDA benefits for an unknown reason.

2011-32268/JL

- 4. In June or July, 2010, Claimant sent a handwritten letter to DHS complaining that his benefits were stopped.
- 5. On April 29, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

MA was established by Title XI X of the Social Sec urity Act and is implemented by Titl e 42 of the C ode of Federal Regulations. DHS administers MA pursuant to MCL 400.10, *et seq*. and MCL 400.105. Department polic ies are found in Bridges Administrative Manual (BAM), Bridges Eligib ility Manual (BEM) and Reference Tables (RF T). These manuals are available online at <u>www.michigan.gov/dhs-manuals</u>.

AMP was established by Title XXI of the Soci al Security Act, Se c. (1115)(a)(1), and is administered by DHS pursuant to MCL 400.10 *et seq*. Department polic ies ar e contained in BAM, BEM and RFT. *Id.*

SDA provides financial assistance for dis abled persons and is established by 2004 Michigan Public Acts (PA) 344. DHS administers SD A pursuant to MCL 400.10 *et seq*. and Michigan Administrative Code Rules 40 0.3151-400.3180. Department policies are found in BAM, BEM and RFT. *Id.*

The administrative manuals are t he policies and procedures DHS officially c reated for its own use. While the DHS manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal au thority which DHS must follow. It is to the manuals that I look now, in order to see what policy applies in this case. A fter setting forth what the app licable policy is, I will e xamine whether it was in fact follo wed in this case.

BAM 105, "Rights and Responsibilities," is not cite d in the Hearing Summary DHS prepared for this Administrative Hearing. I believe that BAM 105 is ap plicable 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. *Id.*, p. 1 (bold print in original).

2011-32268/JL

I read this opening section of BAM 105 to mean that the agency must fulfill these duties, and the agency 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 I ong as the client is cooperating, the agency can and should be flexible in its requests for verification. On page 5 it states:

Clients mu st coo perate with the lo cal office in determining initial and ongoing eligi bility. This inclu des com pletion of ne cessary form s. Se e <u>Refusal to Cooperate Penalties</u> in this section....Allow the client at least 10 d ays (or other tim eframe spe cified in poli cy) to obtain the n eeded information. *Id.*, p. 5.

Applying BAM 105 to the case before me I find and conc lude that DHS failed to determine Claimant's continuing eligibilit y and benefit levels for the AMP and SDA programs when it terminated Claimant's benefits June 1, 20 10, for an unknown reas on. The Department summarily cut off Claimant 's benefits, and when he wrote a letter to them about it, no one responded to his letter. DHS had a duty to respond her e, and at the least, DHS should have treated the letter as a request for an administrative hearing. Instead, DHS made no respons e to Claim ant's letter. This is a failure to protect the client's right to benefits, and a remedy shall be provided.

In conclusion, based on the findings of fact and conclusions of law above, I decide and determine that DHS failed to enforce BAM 105 and DHS therefore is REVERSED. DHS shall reins tate Claim ant's AMP and SDA benefits effective June 1, 2010, an d redetermine his eligibility as of that date, providing sufficient time to Claimant to submit any necessary documentation to DHS.

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:

- 1. Reinstate and reproc ess Claimant's MA/SDA benefits e ffective June 1, 2010 or other appropriate date;
- 2. Provide sufficient time for Claimant to submit any documentation to DHS that is necessary for reprocessing to occur;
- 3. Provide supplemental benefits as necessary to Claimant to restore him to the benefit levels to which he is entitled.

2011-32268/JL

All steps shall be taken in accordance with DHS policies and procedures.

Ja

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

Date Signed: July 15, 2011

Date Mailed: July 15, 2011

NOTICE: Administrative Hearings may or der a rehearing or reconsideration on either its own motion or at t he request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hear ings will not orde r a rehearing or reconsideration on the Department's mo tion where the final decis ion 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/cl