

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

IN THE MATTER OF:



Reg. No.: 2011-32432
Issue Nos.: 1005, 2006, 3000
Case No.: [REDACTED]
Hearing Date: June 8, 2011
DHS County: Wayne (82-17)

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 June 8, 2011. Claimant appeared and testified. [REDACTED], Family Independence Specialist, appeared and testified for the Department of Human Services (DHS). [REDACTED], Family Independence Manager, was also present at the hearing.

ISSUE

Whether Claimant cooperated with DHS' verification requirements for the Family Independence Program (FIP), the Food Assistance Program, (FAP), and the Medical Assistance (MA) program?

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 FIP, FAP and MA benefits.
2. In March 2011, DHS sent Claimant a Redetermination application requesting current income and expense information and scheduling an in-person interview on April 4, 2011.
3. On April 4, 2011, Claimant called DHS and requested a telephone interview, and requested more time in which to submit the Redetermination application.

4. In the April 4, 2011, telephone conversation, DHS informed Claimant she could have until the end of the month to submit the Redetermination and the supporting verification.
5. On April 18, 2011, DHS terminated Claimant's FIP and MA benefits.
6. On April 27, 2011, Claimant submitted the Redetermination application and the supporting documentation.
7. Also on April 27, 2011, Claimant filed a Request for a Hearing with DHS.
8. On April 30, 2011, DHS terminated Claimant's FAP benefits and subsequently reinstated the FAP benefits as of May 1, 2011.

CONCLUSIONS OF LAW

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601 *et seq.* DHS administers the FIP program 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.*

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.*

BAM, BEM and RFT are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan State 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 policies are, I will examine whether they were in fact followed in this case.

BAM 130, "Verification and Collateral Contacts," is the first legal authority I must follow in making my decision in this case. BAM 130 applies to initial applications and to

Redetermination Applications. BAM 130 presents three different requirements for the three benefit programs, FIP, FAP and MA. I present herein only those portions of the timeliness requirements that apply to this case. BAM 130, pp. 1, 5.

1. FIP Timeliness of Verifications

DHS must send a negative action notice in FIP cases when either of these two situations has occurred: the client refuses to provide verification, or the 10-day time period has elapsed and the client has not made a reasonable effort to provide it.

2. FAP Timeliness of Verifications

FAP can be re-registered if the customer submits the verifications within sixty days of DHS request. That is what occurred in this case, and FAP benefits are not presently at issue between the parties.

3. MA Timeliness of Verifications

If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times.

Id., p. 5.

In applying the BEM 130 requirements to the case before me, I have reviewed all of the evidence and testimony in this case as a whole. I find and conclude first, with regard to FIP, that DHS erred when it closed Claimant's FIP case, because she did make a reasonable effort to provide the verifications. Indeed, when she could not comply, she promptly called DHS and told them she needed more time and was given until the end of the month.

I consider DHS' action in allowing Claimant until the end of the month an extension of time in which to comply with the verification requirements. As the extension was granted, DHS should not have terminated benefits before the promised time period for the extension elapsed.

Second, with regard to FAP, as Claimant's FAP benefits were satisfactorily restored before the hearing, I regard this part of the case to be concluded and resolved and I will dismiss it.

Third, with regard to MA, BAM 130 requires DHS to provide as many as three extensions, *of unspecified length*, to a customer who needs more time. I find and conclude that Claimant in this case was granted a first extension, and she complied with it. Therefore, I decide and conclude that DHS erred in closing Claimant's MA benefits on April 18, 2011, when the Claimant was relying on the extension granted to her.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS is PARTIALLY REVERSED in this matter. DHS shall reinstate

and reprocess Claimant's FIP and MA cases and provide any supplemental retroactive benefits to Claimant that are necessary to restore her to the benefit levels to which she is entitled. With regard to the Claimant's FAP case, as this issue in the case has been resolved in advance of the hearing, IT IS ORDERED that the FAP issue in this case is and shall be DISMISSED.

DECISION AND ORDER

The Administrative Law Judge, based on the findings of fact and conclusions of law above, PARTIALLY REVERSES and PARTIALLY DISMISSES the issues in this case.

IT IS HEREBY ORDERED that DHS is PARTIALLY REVERSED with regard to the FIP and MA issues in this case. IT IS ORDERED THAT Claimant's FIP and MA benefits shall be reinstated and reprocessed, and Claimant's benefits shall be supplemented in order that she will receive all retroactive benefits to which she is entitled.

With regard to Claimant's FAP benefits, as DHS has already acted in a satisfactory manner so as to resolve this issue, IT IS ORDERED the FAP issue in this case is hereby DISMISSED.



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

Date Signed: June 14, 2011

Date Mailed: June 16, 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:

