

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. 2011-32887
Issue Nos. 1025, 3008, 5008
Case No. [REDACTED]
Hearing Date: June 6, 2011
[REDACTED]

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]'s request for a hearing. After due notice, a telephone hearing was held on June 6, 2011. The Claimant appeared and testified. [REDACTED] Family Independence Specialist, appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS denied Family Independence Program (FIP), Food Assistance Program (FAP), and State Emergency Relief (SER) benefits to Claimant 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. On March 14, 2011, DHS Office of Child Support (OCS) issued a Cooperation Notice to Claimant stating she was in cooperation with the Department with regard to establishing paternity and/or securing support.
2. On March 21, 2011, Claimant applied for FIP, FAP and SER benefits with DHS.
3. On April 14, 2011, DHS issued a Notice of Case Action denying FIP, FAP and SER benefits to Claimant, and approving FAP benefits for Claimant's two children, effective April 1, 2011.

4. The Notice of Case Action stated that Claimant's application was denied because Claimant was non-cooperative with child support requirements.
5. On April 27, 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 Sec. 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. DHS' FIP policies and procedures are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and 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 found 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' FAP policies are found in BAM, BEM and RFT. *Id.*

SER was established by 2004 Michigan Public Acts (PA) 344. The SER program is administered pursuant to MCL 400.10 *et seq.* and MACR 400.7001-400.7049. DHS policies and procedures are found in the State Emergency Relief Manual (ERM). *Id.*

BAM, BEM, RFT and ERM are the policies and procedures DHS officially created for its own use. DHS manuals are not laws created by the U.S. Congress or the Michigan Legislature, but they constitute legal authority which DHS must follow. It is to the manuals that I look to 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 gives the legal basis for its action in the DHS Hearing Summary it prepared for this Administrative Hearing. I agree with the Department that the manual item that applies to this case is BEM 255, "Child Support."

BEM 255 states that the Department's Philosophy is as follows:

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255, p. 1.

Next, the Department's Policy is stated in BEM 255 as follows:

The head of household and the parent of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. *Id.* (bold print added for emphasis.)

I have reviewed all of the testimony and the evidence in this case as a whole. I find and determine that Claimant was in full cooperation with DHS' Office of Child Support, as evidenced by the March 14, 2011 Cooperation Notice.

Based on the record before me, I find that DHS erred in this case in finding that Claimant was non-cooperative. I find and determine that DHS erred in failing to follow its policy in BEM 255. I find that DHS failed to honor the Cooperation Notice the Department itself issued. I further find and determine that DHS' actions in this case violate the Department Philosophy by failing to acknowledge the extent to which the children's needs were being met by the parent in this family group.

I find and determine that DHS is REVERSED. IT IS HEREBY ORDERED that DHS shall reinstate and reprocess Claimant's FIP, FAP and SER application, and issue any supplemental retroactive payments to Claimant to which she is entitled. All steps shall be taken in accordance with DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that DHS' action was erroneous and shall be REVERSED. IT IS ORDERED that DHS shall reinstate and reprocess Claimant's FIP, FAP and SER application and provide retroactive supplementary benefits to Claimant to which she is entitled. 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 9, 2011

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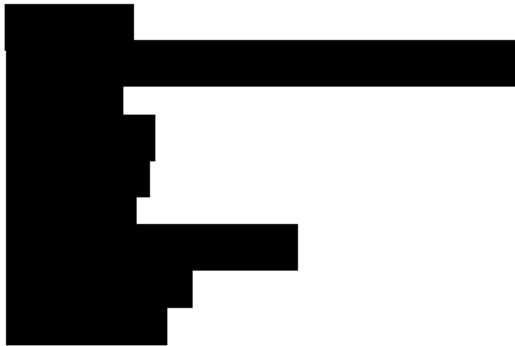
Date Mailed: June 10, 2011

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/cl

cc:

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