

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-33414
Issue Nos. 1025, 2000
Case No. [REDACTED]
Hearing Date: June 20, 2011
Wayne (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]'s request for a hearing. After due notice, a telephone hearing was held on June 20, 2011. The Claimant appeared and testified. [REDACTED], Family Independence Specialist, appeared and testified on behalf of the Department of Human Services (DHS). [REDACTED] was also present at the hearing.

ISSUES

1. Whether DHS terminated Claimant's Family Independence Program (FIP) benefits from March 1-May 15, 2011, in accordance with its policy and procedure?
2. Whether Claimant's request to dismiss her Medical Assistance-Adult Medical Program (MA or Medicaid-AMP) claim in this case should be granted?

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, DHS provided Claimant with FIP and MA-AMP benefits.
2. On March 2, 2011, DHS issued a Notice of Case Action terminating Claimant's AMP benefits effective April 1, 2011. Subsequently, Claimant's AMP was reinstated and no break in coverage occurred.

3. From March 1-May 15, 2011, DHS terminated Claimant's FIP benefits.
4. 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 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and 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. Department policies are found in BAM, BEM and RFT. *Id.*

AMP was established by Title XXI of the U.S. Social Security Act, Sec. (1115)(a)(1), and is administered by DHS pursuant to MCL 400.10 *et seq.* Department policies are contained in BAM, BEM and RFT. *Id.*

BAM, BEM and RFT are the policies and procedures DHS officially created for its own use. While the 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 manual items are, I will examine whether they were followed in this case.

Considering first DHS' termination and reinstatement of Claimant's AMP benefits, as the Claimant is satisfied and requested that this issue be dismissed from her case, I will honor her request and dismiss it in my Order.

Next, with regard to Claimant's FIP benefits, BEM 255, "Child Support," does require customers to cooperate with DHS paternity and child-support enforcement policies and procedures. However, there is no evidence in the record to show that Claimant refused to comply. Indeed, DHS at the hearing testified to assiduous but unsuccessful efforts to communicate internally about this, from the Local Office in Hamtramck to the Central DHS Office of Child Support.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS failed to establish by clear and convincing evidence that Claimant refused to comply with the paternity and child support requirements of the

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Department. DHS is REVERSED in this case, and Claimant's FIP benefits shall be reinstated for March 1-May 15, 2011 retroactively by the means of a supplemental payment to her.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, concludes and decides that DHS' termination of Claimant's FIP benefits is REVERSED. IT IS HEREBY ORDERED that DHS reinstat e Claimant's FIP benefits from March 1-May 15, 2011, and pay to Claimant all supplemental benefits necessary to restore her to the benefit level to which she is entitled.

With regard to Claimant's claim regarding AMP, at Claimant's request and pursuant to MACR 400.903 and 400.906, the AMP claim is HEREBY DISMISSED from this case.



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

Date Signed: June 21, 2011

Date Mailed: June 22, 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.

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cc:

