

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-34447
Issue Nos. 3008, 6015
Case No. [REDACTED]
Hearing Date: June 16, 2011
DHS County: Wayne (43)

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 16, 2011. The Claimant appeared and testified. [REDACTED] Eligibility Specialist, appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS terminated Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) benefits in accordance with DHS policy and procedure?

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 FAP and CDC benefits to Claimant.
2. [REDACTED] the father of Claimant's newborn baby [REDACTED], is a convicted felon who served seven and one-half years in prison.

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3. [REDACTED] worked with Claimant at [REDACTED] restaurant. He was fired when he attacked her at work. She was pregnant with [REDACTED] at the time. The event was videotaped.
4. DHS failed to inform Claimant that she had a right to claim good cause for not cooperating with DHS' Office of Child Support (OCS) with regard to establishing paternity and/or securing support.
5. Claimant initially failed to identify [REDACTED] to DHS Office of Child Support (OCS) out of fear of an attack against herself and the baby.
6. On May 2, 2011, DHS terminated Claimant's FAP and CDC benefits, stating she was not in cooperation with the Department.
7. On May 13, 2011, Claimant filed a Request for a Hearing with DHS. On the back of the Hearing Request form Claimant submitted the following information:
 - a) Full name – [REDACTED]
 - b) Last known address: [REDACTED]
 - c) Current address: [REDACTED]
 - d) Last place of work: [REDACTED]
 - e) Date of birth: [REDACTED]
 - f) Facebook page: [REDACTED]
 - g) Mother's maiden name: [REDACTED]
 - h) Sister's name: [REDACTED]
 - i) Statement: [REDACTED]

CONCLUSIONS OF LAW

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 Michigan Administrative Code Rules (MACR) 400.3001-400.3015. DHS' FAP policies and procedures 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.

CDC was established by Titles IVA, IVE and XX of the U.S. Social Security Act, the U.S. Child Care and Development Block Grant of 1990, and the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. DHS provides CDC benefits to adults and children pursuant to MCL Section 400.14(1) and MACR 400.5001-5015. DHS' CDC policies are found in BAM, BEM and RFT. *Id.*

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BAM, BEM and RFT 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 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.* (Boldface added for emphasis.)

BEM 255 requires DHS to inform clients that they can claim good cause for failure to cooperate. DHS is required to present each client with a form telling them that good cause is established when there is danger of physical or emotional harm to the child or the client. *Id.*, pp. 2-3.

I have reviewed all of the testimony and the evidence in this case as a whole. Based on the record before me, I find and determine that DHS failed to inform Claimant of her right to claim that she had good cause for not cooperating with paternity and child-support enforcement. I also find and determine that Claimant has established good cause for failing to cooperate with OCS.

I further find and determine that on May 13, 2011, when Claimant filed a Hearing Request and provided all the information she had, she was in full cooperation with DHS' Office of Child Support.

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 the policy in BEM 255. I further find and determine that DHS' actions in this case

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violated the Department Philosophy by failing to acknowledge the extent to which the child's and the client's safety 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 FAP and CDC benefits, and issue an y supplemental retroactive payments to Claimant to which she is entitled. All steps shall be taken in accordance with DHS policy and procedure.

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 FAP and CDC benefits, and provide retroactive supplementary benefits to Claimant to which she is entitled. All steps shall be taken in accordance with DHS policy and procedure.



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

Date Signed: June 20, 2011

Date Mailed: June 21, 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:

