

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-36490
Issue Nos. 1000, 2006, 3008 and 6015
Case No. [REDACTED]
Hearing Date: July 14, 2011
MACOMB (20)

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, which govern the administrative hearing and appeal process, and Claimant's request for a hearing. After due notice, a telephone hearing was held on July 14, 2011 in Detroit. Claimant appeared and testified. [REDACTED], Family Independence Specialist, appeared and testified for DHS.

ISSUES

1. Whether Claimant's request, that her Family Independence Program (FIP) benefits dispute be dismissed from this action, should be granted?
2. Whether Claimant cooperated with DHS' verification requirements for the Food Assistance Program (FAP)?
3. Whether Claimant is entitled to Medical Assistance (MA) and Child Development and Care (CDC) 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 case, Claimant fully cooperated with DHS.
2. In 2010, DHS provided MA benefits to Claimant.
3. On November 1, 2010, DHS terminated Claimant's MA benefits for an unknown reason.

4. In 2010, DHS provided CDC benefits to Claimant.
5. On November 7, 2010, DHS terminated Claimant's CDC benefits for an unknown reason.
6. In 2011, DHS provided FIP benefits to Claimant.
7. In May, 2011 Claimant requested that DHS close her FIP benefits.
8. Claimant does not seek to dispute the closure of her FIP benefits on June 1, 2011, through the Administrative Hearing process.
9. In 2011, DHS provided FAP benefits to Claimant.
10. On April 13, 2011, DHS sent Claimant a Redetermination application form requesting current income information. DHS requested that Claimant provide information by May 2, 2011.
11. On April 29, 2011, Claimant submitted the Redetermination form and four paystubs dated April 7, 14, 21 and 28, to DHS.
12. On or about May 23, 2011, DHS reduced Claimant's FAP benefits from \$492 to \$258 effective June 1, 2011.
13. On May 20, May 24 and May 31, 2011, Claimant submitted Hearing Requests to DHS.
14. At the Administrative Hearing held on July 14, 2011, Claimant indicated she did not wish to dispute her May, 2011 request to DHS to close her FIP case, and agreed that it should not be an issue at the hearing.

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 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 I (BAM), 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 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. Department 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' MA policies are found in BAM, BEM and RFT. *Id.*

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.*

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.

Under BAM Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continue through the day of the hearing.

DHS did not cite BAM 105, "Rights and Responsibilities," in the Hearing Summary it prepared for the Administrative Hearing. I find that BAM 105 is the applicable Item 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. BAM 105, p. 1 (bold print in original).

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 long as the client is cooperating, the agency can and should be flexible in its requests for verification. On page 5 it states:

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. See Refusal to Cooperate Penalties in this section....Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. *Id.*, p. 5.

Having identified the relevant legal authority for my decision, I now proceed to my analysis of how the law applies to the facts of the case at hand. I will address first the termination of Claimant's MA and CDC benefits for unknown reasons. I find and conclude that DHS' termination of MA and CDC benefits without a reason constitutes a failure to determine all three of the BAM 105 requirements, to determine the client's eligibility and benefit levels, and to protect client rights. At the hearing in this case the Department could not articulate reasons for these closures. I find and conclude that DHS failed to observe BAM 105 and a remedy must be provided to Claimant.

Next, with regard to Claimant's FAP benefits, DHS submitted documentation that shows Claimant provided full documentation of her income and assets in advance of the DHS deadline for submitting that information. Yet, at the hearing, DHS stated that one of Claimant's four paystubs was not submitted in a timely manner. DHS' testimony belies the date stamps on the paystubs presented. Accordingly I find and conclude that the reduction of Claimant's FAP benefits may not be correct and her FAP benefits should be recalculated based on all of the available information.

Last, I will address Claimant's FIP benefits, which Claimant herself requested termination in May, 2011. At the hearing Claimant agreed that she did not wish to reopen her closure of her FIP benefits. Accordingly, I will dismiss the FIP issue from consideration in this case.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS erred in terminating Claimant's MA and CDC benefits without a reason, and in decreasing Claimant's FAP benefits based on incomplete information. I find that DHS is PARTIALLY REVERSED as to these three issues. With regard to the FIP issue presented in this case, at Claimant's request and based on her testimony that she does not wish to reopen her FIP closure request of May, 2011, the FIP issue is DISMISSED from consideration at this hearing.

DECISION AND ORDER

The Administrative Law Judge, based on the findings of fact and conclusions of law above, determines and decides that DHS is PARTIALLY REVERSED with regard to the FAP, MA and CDC benefits issues in this case. IT IS ORDERED THAT DHS shall:

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1. Recalculate Claimant's FAP benefits to determine if the June 1, 2011 reduction in her FAP benefits was based on all of the available information;
2. Provide supplemental FAP benefits to Claimant as appropriate to restore her to the FAP benefit level to which she is entitled;
3. Reinststate Claimant's MA benefits effective November 1, 2010 or other appropriate date;
4. Determine Claimant's eligibility for MA benefits as of November 1, 2010, and issue a written Notice stating her eligibility or lack of eligibility, and the reasons for the decision;
5. Provide supplemental MA benefits to Claimant as appropriate to restore her to the benefit levels to which she is entitled;
6. Reinststate Claimant's CDC benefits effective November 7, 2010 or other appropriate date;
7. Determine Claimant's eligibility for CDC benefits and issue a written Notice stating her eligibility or lack of eligibility and the reasons for the decision;
8. Provide supplemental CDC benefits to Claimant as appropriate to restore her to the benefit levels to which she is entitled.

With regard to Claimant's FIP benefits, as the Claimant requested that her FIP case be closed and she agrees that she does not wish it to be reopened, IT IS ORDERED that the FIP issue in this case is hereby DISMISSED.

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: July 15, 2011

Date Mailed: July 15, 2011

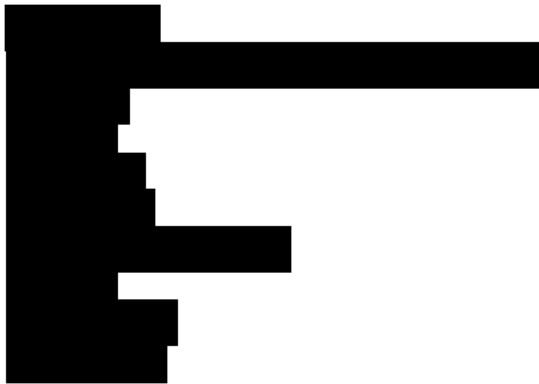
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NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration 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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