

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-40548
Issue Nos.: 1025, 2006, 3008
Case No.: [REDACTED]
Hearing Date: August 11, 2011
DHS County: Wayne (82-57)

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 August 11, 2011, in Detroit, MI. Claimant appeared and testified.

[REDACTED]
[REDACTED] appeared and testified on behalf of the Department of Human Services (DHS). Also present from the DHS Office of Child Support were [REDACTED]
[REDACTED].

ISSUES

1. Whether DHS provided Claimant with the Family Independence Program (FIP) benefits to which she was entitled as of May 1, 2011?
2. Whether DHS provided Claimant with the Medical Assistance (MA or Medicaid) benefits to which she was entitled as of May 1, 2011?
3. Whether DHS provided Claimant with the Food Assistance Program (FAP) benefits to which she was entitled in May and July 2011?

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, FAP and MA benefits.

2. In about April 2011, Claimant's daughter began receiving Supplemental Security Income (SSI) benefits from the U.S. Social Security Administration.
3. On May 1, 2011, DHS reduced Claimant's FIP benefits from \$694 to \$597 per month, reduced Claimant's FAP benefits from \$737 to \$516 per month, and terminated some or all of her MA benefits.
4. On May 27, 2011, DHS issued a Notice of Case Action closing Claimant's FIP and MA benefits effective June 1, 2011, and stating that Claimant's FAP benefits would be reduced also effective June 1, 2011.
5. On or about June 1, 2011, Claimant's FAP benefits increased from \$516 to \$742.
6. On June 3, 2011, Claimant filed a Request for a Hearing with DHS.
7. On July 1, 2011, DHS reduced Claimant's FAP from \$742 to \$603.

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 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 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.*

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 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.

DHS did not cite BAM 105, "Rights and Responsibilities," in its Hearing Summary. 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 DHS must fulfill these duties and 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 this case, Claimant's complaint arises out of the May 1 and May 27, 2011, DHS reductions and terminations of her FIP, FAP and MA benefits. These are the complaints Claimant raises in her June 3, 2011, Hearing Request and in her hearing testimony.

DHS presented no documentation regarding the events of May 2011 other than a computer printout documenting that the actions occurred. There are no Notices of Case Action in the record to show that SSI income was the reason for the FIP and FAP reductions and the MA closure, and to show the correct amounts of the reductions. Accordingly, I give little weight to the uncorroborated testimony of DHS as to the reasons for these actions.

I find that DHS' credibility in this matter is further diminished by its emphasis on events that occurred in June 2011, *after* the May changes occurred. I find and decide that DHS failed to address the May events adequately at the hearing. I conclude that DHS errors

occurred on May 1 and May 27, 2011, and that these errors constitute a failure to protect client rights. I reverse DHS' decisions on those dates.

In conclusion, based on the above findings of fact and conclusions of law, I find and determine that DHS is REVERSED. IT IS HEREBY ORDERED that DHS shall reinstate and reprocess Claimant's FIP, FAP and MA benefits as of May 1, 2011, issue any supplemental retroactive payments to Claimant to which she is entitled, and issue adequate notice to Claimant as to the changes effected. 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, decides that DHS is REVERSED. IT IS HEREBY ORDERED that DHS shall:

1. Reinstate and reprocess Claimant's FIP, FAP and MA benefits as of May 1, 2011;
2. Provide her with all supplemental retroactive benefits to which she is entitled.
3. Provide adequate notice to Claimant of all changes as of May 1, 2011, to the present, including changes occasioned by subsequent actions of the DHS Office of Child Support.

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: August 16, 2011

Date Mailed: August 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:

