

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.: 2011-8449
Issue Nos.: 1002, 3004, 6019
Case No.: [REDACTED]
Hearing Date: January 5, 2011
DHS County: Wayne (82-55)

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 January 5, 2011. Claimant appeared and testified. [REDACTED], also appeared and testified as a witness. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP), Food Assistance Program (FAP), Medical Assistance (MA or Medicaid) 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. In 2010, Claimant received FIP, FAP, MA and CDC benefits and participated in the Jobs, Education and Training (JET) program.
2. On September 14, 2010, DHS sent Claimant a Redetermination, DHS Form 1010, requesting updated information and scheduling an in-person interview for October 6, 2010.
3. DHS sent the Redetermination form to an incorrect address for Claimant.
4. As of October 31, 2010, DHS terminated Claimant's benefits.

5. On October 28, 2010, Claimant filed a notice of request for 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 the FIP program pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (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 in Title 7 of the Code of Federal Regulations (CFR). DHS administers the FAP program pursuant to MCL 400.10 *et seq.*, and MACR 400.3001-400.3015. DHS' 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 in CFR Title 42. DHS administers the MA program pursuant to MCL 400.10 *et seq.*, and MCL 400.105. DHS policies are found in BAM, BEM and RFT. *Id.*

CDC was established by Titles IVA, IVE and XX of the 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 CFR Title 45, Parts 98 and 99. DHS provides services to adults and children pursuant to MCL 400.14(1) and MACR 400.5001-400.5015. DHS policies are contained in BAM, BEM and RFT. *Id.*

The administrative manuals are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by 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.

The administrative policies cited to me by DHS are BAM 115, "Application Processing," and two other BAM sections which do not exist. BAM 115 is twenty-six pages long, and DHS failed to refer to a specific page or section of the Item. I do not find these references to be adequate legal justification for the action taken by DHS. I will examine DHS' actions and determine if there is a specific authority I can find which applies to the DHS action in a more direct manner.

I have examined the evidence and the testimony in the case in its entirety. I find that it is undisputed that DHS sent the Redetermination to the wrong address. I therefore consider first whether DHS fulfilled its responsibility to Claimant in this case.

I find that BAM 105, "Rights and Responsibilities," is the relevant manual Item to apply in this case. DHS' responsibility to customers is addressed in BAM 105, "Rights and Responsibilities." It states at the outset that:

The Local office must do **all** of the following:

- Determine eligibility.
- Calculate the level of benefits.
- Protect client rights.

BAM 105, p. 1 of 13 (bold print in original).

I apply this section to the case before me, and I find and determine that DHS failed to protect client rights when it failed to send correspondence to Claimant at the correct address. I find that DHS erred in this matter and that the error shall be corrected. I decide and conclude that Claimant shall receive another opportunity to submit her Redetermination, and DHS shall use the information to decide whether she qualifies for FIP (including JET), FAP, MA and CDC benefits.

I REVERSE DHS' termination of Claimant's benefits in this case and ORDER that Claimant's case shall be reinstated and reprocessed in accordance with all DHS policies and procedures. IT IS ORDERED that DHS shall reinstate and reprocess Claimant's Redetermination eligibility for the FIP (including JET), FAP, CDC and MA programs.

DECISION AND ORDER

Based on the findings of fact and conclusions of law above, I find and determine that DHS is REVERSED in this matter. IT IS ORDERED that DHS shall reinstate and reprocess Claimant's Redetermination for FIP (including JET), FAP, MA and CDC in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Duane Berger, Director
Department of Human Services

Date Signed: January 10, 2011

Date Mailed: January 13, 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/pf

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