

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.: 2011-13096
Issue Nos.: 1025, 3019
Case No.: [REDACTED]
Hearing Date: February 23, 2011
DHS County: Wayne (82-76)

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] request for a hearing. After due notice, a telephone hearing was held on February 23, 2011. Claimant appeared and testified. [REDACTED], and [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS terminated Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) 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 2010, Claimant received FIP and FAP benefits.
2. On [REDACTED], Claimant's grandson, [REDACTED], was born and came under the custody and care of Claimant.
3. After [REDACTED], Claimant requested that DHS change her family group composition to include Jaidin Stewart.
4. After [REDACTED], DHS called Claimant and requested paternity information about the child's father.

5. Claimant gave DHS all of the information she had about [REDACTED], the child's father, including his phone number.
6. DHS contacted [REDACTED] by telephone and met with him in person to obtain paternity information.
7. On June 23, 2010, DHS issued a First Customer Contact Letter, DHS Office of Child Support (OCS) Form 0015, requesting paternity information about the child's father.
8. Claimant never received the June 23, 2010 OCS letter.
9. On August 5, 2010, DHS issued a Final Customer Contact Letter, OCS Form 0025, requesting paternity information for [REDACTED].
10. Claimant received the August 5, 2010, letter and contacted DHS about it.
11. DHS stated to Claimant that the information was transmitted from the OCS office to the DHS local office, and OCS would refax the information to the local office.
12. DHS misplaced or lost Claimant's paternity information regarding [REDACTED].
13. On September 23, 2010, DHS issued a Notice of Case Action announcing that Claimant's FIP benefits and that portion of FAP benefits that was allocated to her own needs, would be terminated on November 1, 2010.
14. On December 20, 2010, Claimant filed a notice of hearing request 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 (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. 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.*

The administrative manuals 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 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.

In this case, DHS prepared a Hearing Summary for the Administrative Hearing, and it contains citations to three manual Items as the legal authority for DHS' actions. The policies that the Department refers me to are BAM 115, "Application Processing;" BAM 400, "Issuance of Program Benefits;" and BEM 255, "Child Support." I reviewed these Items and I find and determine that none of them provides specific guidance to help me in determining the issue in this case. Instead, I determine that the issue in this case is whether DHS protected client rights when it misplaced or lost Claimant's paternity information. I believe that BAM 105, "Rights and Responsibilities," is the appropriate legal authority to use in deciding this case.

BAM 105 requires DHS to administer its programs in a responsible manner so as 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 DHS is subject to judicial review of its fulfillment of these duties. If it is found that DHS failed in its duty to the client, it has committed error.


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. DHS asserts that Claimant failed to provide it with paternity information and she is therefore ineligible.

I find and conclude that Claimant did not fail to provide DHS with paternity information and that she completely cooperated in providing the information, including the phone number of the child's father. I find and conclude that DHS failed to protect client rights when it misplaced or lost Claimant's paternity information. I decide and determine that DHS erred in this case and a remedy is appropriate.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS erred in failing to protect client rights. I find that DHS acted incorrectly and is REVERSED. DHS is ORDERED to reinstate and reopen Claimant's FIP and FAP benefits for November 1, 2010-December 16, 2010, or other appropriate dates, and provide Claimant with any retroactive benefits to which she is entitled in accordance with all 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 ORDERED that DHS shall reinstate and reprocess Claimant's FIP and FAP benefits for November 1-December 16, 2010, or other appropriate time period, and provide appropriate supplemental retroactive benefits in accordance with DHS policies and procedures.



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

Date Signed: March 1, 2011

Date Mailed: March 3, 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.

2011-13096/JL

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:

