

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.: 2011-1717
Issue No.: 1021
Case No.: [REDACTED]
Hearing Date: December 16, 2010
DHS County: Wayne (82-43)

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 December 16, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly processed Claimant's written request for withdrawal from the Family Independence Program (FIP)?

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 benefits.
2. On August 18, 2010, Claimant submitted a written withdrawal to DHS, requesting that her FIP benefits be closed.
3. On September 15, 2010, Claimant filed a hearing request notice 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 USC 601, *et seq.* DHS administers the FIP program pursuant to MCL 400.10, *et seq.* and Michigan Administrative Code

Rules 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.

The manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan Legislature, they constitute the 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.

DHS has cited BAM 220, "Case Actions," to the Administrative Law Judge as authority for the action taken in this case. I agree that BAM 220 contains the procedures that must be followed in this case.

The Department Policy stated at the beginning of BAM 220 is as follows:

Changes in circumstances may be reported by the client, via computer tape matches, through quality assurance (QA) reviews, or by other means.

A positive action is a DHS action to approve an application or increase a benefit.

A **negative action is a DHS action to** deny an application or to reduce, suspend or **terminate a benefit**. BAM 220, p. 1 (bold print added for emphasis).

I read the Department Policy statement to mean that a negative action includes actions taken based on client reports. I therefore find and conclude that DHS' termination of Claimant's benefits in this case was a "negative action" within the definition of BAM 220's Department Policy paragraph. I do not interpret this paragraph to mean that because Claimant herself made the request, DHS *did not* take a negative action.

If a negative action is taken, BAM 220 requires that a notice be sent to the client informing them of the negative action.

NOTICE OF CASE ACTIONS

All Programs

Upon certification of eligibility results, **Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center.**

...

There are two types of written notice: adequate and timely.

...

Adequate Notice

An adequate notice is a written notice sent to the client at the same time an action takes effect (i.e., not pending). **Adequate notice is given in the following circumstances:**

FIP, RAPC, SDA, MA, CDC and AMP Only

A recipient or his legal guardian or authorized representative requests in writing that the case be closed. *Id.*, pp. 1-2 (bold print added for emphasis).

I have reviewed all of the evidence and testimony in this case as a whole in reaching my decision. I also reviewed the BAM Item that applies to this case. Based on all of the above, I find and conclude that DHS failed to provide adequate notice to Claimant in this case. There is nothing in the record to indicate that DHS sent a Notice of Case Action to Claimant when her benefits were stopped.

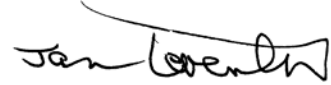
Stopping a client's benefits is an important step for DHS to take and, as errors can always occur, the BAM 220 notice requirement is an added protection that a client will not be adversely affected. The BAM 220 notice requirement provides that *whenever* a negative action is going to be taken, the client receives in writing the information that the action is being taken, the effective date, and information about appeal rights. Thus, if some inaccuracy occurs, the client has an opportunity to inform DHS and request that DHS defer action until it is reviewed and, if necessary, corrected.

In this case, I find that if DHS had issued adequate notice to Claimant, she would have had an opportunity to recognize and correct her own error. I determine that BAM 220 was created to protect against client as well as DHS error, and that the notice requirement exists so that DHS can protect client rights as well as administering DHS duties correctly.

As adequate notice is mandated by BAM 220, I determine that DHS error has occurred and DHS shall be REVERSED. IT IS ORDERED that DHS shall delete the closure, reopen and reactivate Claimant's case, and provide FIP benefits and supplemental benefits to Claimant as appropriate and 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, determines and decides that DHS is REVERSED in this case. IT IS ORDERED that DHS shall delete the negative action, reopen and reactivate Claimant's FIP case, and provide FIP benefits and supplemental benefits to Claimant as appropriate pursuant to DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 21, 2010

Date Mailed: December 22, 2010

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

cc:

