

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.: 2011-21327  
Issue No.: 2006  
Case No.: [REDACTED]  
Hearing Date: March 24, 2011  
DHS County: Oakland (63-04)

**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 March 24, 2011. Claimant appeared and testified. [REDACTED], Claimant's Authorized Representatives, appeared and testified on behalf of Claimant. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

**ISSUE**

Whether Claimant cooperated with DHS in the processing of her Medical Assistance (MA or Medicaid) and Adult Medical Program (AMP) application?

**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. On November 30, 2010, Claimant applied for MA and AMP benefits with DHS.
2. On November 30, 2010, AMP was open to new applicants.
3. Claimant is not eligible for MA for families because she has no dependent children.
4. Claimant has Crohn's disease and may be eligible for MA as a disabled person.

5. On January 14, 2011, DHS sent Claimant a Verification Checklist for AMP, requesting a checking account statement and a statement of the value of her vehicle.
6. Claimant contacted DHS at least three times to request assistance with the vehicle documentation requirement, but was unsuccessful in reaching her DHS Specialist.
7. On January 28, 2011, DHS denied Claimant's application for MA and AMP.
8. On February 8, 2011, Claimant filed a hearing request notice with DHS.

### **CONCLUSIONS OF LAW**

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. DHS administers the MA program pursuant to MCL 400.10 *et seq.* and MCL 400.105. 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](http://www.michigan.gov/dhs-manuals).

AMP was established by Title XXI of the Social Security Act, Sec. 1115(a)(1), and is administered pursuant to MCL 400.10 *et seq.* 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 DHS 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 policy is, I will examine whether it was in fact followed in this case.

In this case I find there are two DHS manual Items that are applicable: BAM 130, "Verification and Collateral Contacts," and BAM 105, "Rights and Responsibilities." Looking first at BAM 130, "Verification and Collateral Contacts," I find that this Item requires DHS to grant as many as three extensions of time of any length, in order for the client to provide verification in MA and AMP cases. I believe that BAM 130 entitles the client to such extensions, and I find that DHS did not observe this requirement. BAM 130, p. 5.

Also, BAM 130 requires DHS to "use the best available information" if DHS and the client cannot obtain verification or, if there is no information whatsoever, to "use your

best judgment.” *Id.*, p. 3. I find that DHS did not afford Claimant either of these opportunities and, as a result, Claimant’s right to apply was not protected in this case.

Second, I find that DHS violated BAM 105, “Rights and Responsibilities,” in that DHS failed to protect the client’s right to sufficient time to submit verification. 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 DHS 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, DHS 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. DHS asserts that Claimant failed to provide it with vehicle information and she is, therefore, ineligible. The information in dispute consists of Claimant’s checking account statement and a statement of the value of Claimant’s vehicle.

Applying BAM 105 to this case, I find and conclude that Claimant exhibited full cooperation when she repeatedly telephoned her DHS Specialist for help and left at least three messages when his mailbox was not completely full. I find that Claimant's cooperation entitles her to have her application rights protected by DHS. I find and conclude that DHS failed to protect client rights when it failed to provide any extensions of time for her to submit verification.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS erred in failing to preserve Claimant's right to apply for MA and AMP benefits. I find that DHS acted incorrectly and is REVERSED. DHS is ORDERED to reinstate and reprocess Claimant's MA and AMP application, assist Claimant with the verification of the value of her vehicle, 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 MA and AMP application, accept Claimant's checking account statement, assist her with verification of the value of her vehicle, determine her eligibility for both programs and provide appropriate supplemental retroactive benefits in accordance with DHS policies and procedures.



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

Date Signed: April 6, 2011

Date Mailed: April 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.

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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:

