

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.: 2011-22507
Issue Nos.: 2001, 3003, 5100
Case No.: [REDACTED]
Hearing Date: March 30, 2011
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 March 30, 2011. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

Whether DHS acted in accordance with its policies and procedures when it denied Claimant Food Assistance Program (FAP), Medical Assistance (MA or Medicaid) Adult Medical Program (AMP), and State Emergency Relief (SER) 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. On February 11, 2011, Claimant applied for FAP, MA and SER benefits with DHS.
2. On February 23, 2011, DHS denied Claimant's application. Claimant's FAP application was denied for the reason that his income was over the maximum allowable income in order to qualify for FAP. Claimant's SER application was denied because Claimant already received the maximum SER benefit allowable in a fiscal year. Claimant's MA-AMP application was denied because the program was not accepting new applications at the time Claimant applied.
3. On February 23, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

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 Michigan Administrative Code Rules (MACR) 400.3001-400.3015. 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.

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.*

AMP was established by Title XXI of the Social Security Act, Sec. (1115)(a)(1), and is administered by DHS pursuant to MCL 400.10 *et seq.* DHS' policies are contained in BAM, BEM and RFT. *Id.*

SER was established by 2004 Michigan Public Acts 344. The SER program is administered pursuant to MCL 400.10 *et seq.* and MACR 400.7001-400.7049. DHS' policies and procedures are found in the Emergency Relief Manual (ERM). ERM is available online at www.michigan.gov/dhs-manuals.

The DHS 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 manual items are, I will examine whether they were followed in this case.

First, considering FAP, 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 beginning 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 it 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.

I have reviewed all of the evidence and testimony in this case. At the hearing, DHS acknowledged an error in calculating Claimant's FAP benefits and offered to correct it and provide Claimant with appropriate supplemental and ongoing benefits. I find and determine that this action is appropriate and does resolve the FAP issue in this case. I **REVERSE** the Department's FAP action of February 23, 2011, and, order that DHS shall reinstate Claimant's FAP application and recalculate Claimant's eligibility for FAP.

Second, with regard to Claimant's Adult Medical Program application, I find that the Department gave credible and un rebutted testimony that the program was not open to new enrollees when Claimant applied for the program. I accept this testimony and I find and **AFFIRM** that DHS acted correctly in denying Claimant's AMP application.

Third, with regard to SER benefits, DHS gave credible and un rebutted testimony that it had already provided Claimant with the maximum assistance SER can provide a person in one year. ERM 301 sets forth the fiscal year maximum, or cap, amounts. I accept the DHS testimony on this issue and **AFFIRM** DHS' action regarding its denial of SER to Claimant. ERM 301, p. 8.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that in this case, DHS is **PARTIALLY AFFIRMED** and **PARTIALLY REVERSED**. DHS is **ORDERED** to reinstate and process Claimant's FAP application of February 11, 2011. DHS is **AFFIRMED** and need take no further action with regard to Claimant's MA-AMP and SER applications. All steps shall be taken in accordance with DHS policy and procedure.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is PARTIALLY AFFIRMED and PARTIALLY REVERSED in this case. IT IS ORDERED that DHS shall reinstate and reprocess Claimant's FAP application. DHS need take no further action with regard to Claimant's MA-AMP and SER applications. All actions shall be conducted in accordance with DHS policy and procedure.



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

Date Signed: April 11, 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.

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:

