

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-30753
Issue Nos.: 1021, 2015, 6019
Case No.: [REDACTED]
Hearing Date: May 23, 2011
DHS County: Wayne (82-35)

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 May 23, 2011. Claimant appeared and testified at the hearing. [REDACTED], Claimant's Authorized Representative, appeared and testified at the hearing. [REDACTED], and [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether Claimant is eligible for Family Independence Program (FIP) benefits?
2. Whether Claimant is eligible for Medical Assistance (MA or Medicaid) benefits?
3. Whether Claimant is eligible for 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. On or about January 1, 2011, Claimant applied to DHS for FIP, MA and CDC benefits.
2. Claimant is nineteen years old, she has one child, and she attends tenth grade at the [REDACTED].

3. On February 11, 2011, DHS issued a Notice of Case Action denying FIP and MA benefits to Claimant.
4. On March 4, 2011, DHS issued an Application Notice denying CDC benefits to Claimant.
5. On February 17, 2011 and March 24, 2011, Claimant filed notice of hearing requests 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 FIP 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.

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.*

CDC was established by Titles IVA, IVE and XX of the U.S. 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 Title 45 of the Code of Federal Regulations, Parts 98 and 99. DHS provides CDC benefits to adults and children pursuant to MCL Section 400.14(1) and MACR.5001-5015. DHS' CDC policies are found in BEM, BAM and RFT. *Id.*

BEM, BAM and RFT 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.

Considering first Claimant's application for FIP benefits, I see that the DHS Notice of Case Action states that the reason for the denial of FIP benefits is that Claimant failed to attend the JET program. However, at the hearing, DHS stated that the reason for the denial of FIP benefits was that Claimant was nineteen years old and attending school and was, therefore, ineligible because of her age and student status. I cannot credit

DHS' inconsistency on this issue, and I REVERSE DHS and order that Claimant's FIP application be reinstated and Claimant's eligibility shall be carefully reviewed. I order that benefits shall be granted if she is otherwise eligible, or the specific reason for the denial shall be announced in writing to the Claimant.

Second, with regard to Claimant's MA benefits, I am faced with conflicting testimony from the parties. DHS claims that Claimant is receiving MA in an unidentified MA program category, while Claimant states she was denied MA benefits. Accordingly, I REVERSE DHS' denial of MA benefits to Claimant and order that Claimant's MA benefit application be reinstated and reprocessed. If Claimant is eligible for MA benefits, she shall be so informed, including the name of the specific MA benefit category in which she receives benefits. If Claimant is ineligible for MA, she shall be specifically informed as to the reasons for the denial.

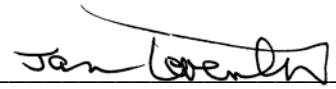
Third, turning to Claimant's application for CDC benefits, I apply BEM 703, "CDC Program Requirements," in this case and find that Claimant is eligible for CDC benefits as a high-school student regardless of her age. BEM 705 provides no age limitation on individuals who are completing high school and, as Claimant is doing so, she does have a need for CDC and is eligible for it.

In conclusion, based on the findings of fact and conclusions of law above, I REVERSE DHS' action with regard to Claimant's FIP and MA applications and order that DHS shall reinstate and reprocess these two applications to determine if Claimant is indeed eligible in accordance with the requirements of this decision. Last, with regard to CDC benefits, I REVERSE DHS' denial of CDC benefits and find that Claimant is eligible for CDC benefits as a high school student, and I order accordingly.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES DHS' denial of Claimant's FIP and MA applications and orders that these applications shall be reinstated and reprocessed. Further, IT IS ORDERED that DHS is REVERSED as to CDC benefits in this case, and, unless Claimant is otherwise ineligible for CDC, she shall be granted CDC benefits based on need.

All DHS actions shall be taken in accordance with DHS policies and procedures.



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

Date Signed: May 25, 2011

Date Mailed: May 26, 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:

