

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-37987
Issue Nos. 2006, 3008, 6015
Case No. [REDACTED]
Hearing Date: July 13, 2011
WAYNE (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, which govern the administrative hearing and appeal process, and Claimant's request for a hearing. After due notice, a telephone hearing was held on July 13, 2011 in Detroit. The Claimant appeared and testified. [REDACTED] Eligibility Specialist, appeared and testified on behalf of the Department of Human Services (DHS). [REDACTED] Assistance Payments Supervisor, was also present from DHS.

ISSUE

Whether Claimant refused to cooperate with DHS in submitting her Redetermination application for Food Assistance Program (FAP), Medical Assistance (MA or Medicaid) and 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. At all times pertinent to this matter, Claimant was fully cooperative with DHS.
2. In 2010, DHS provided Claimant with FAP, MA and CDC benefits.
3. In November, 2010, DHS reduced or terminated Claimant's CDC benefits for an unknown reason.

4. In about January, 2011, Claimant did not receive a redetermination application packet from DHS.
5. On March 5, 2011, DHS notified Claimant that her personal MA benefits would be terminated, and her FAP and CDC benefits would be reduced or terminated, effective April 1, 2011.
6. On April 4 and May 19, 2011, Claimant filed Requests for a Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the Food Stamp Act of 1977 and is implemented by Federal regulations in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules (MACR) 400.3001-400.3015. Department policies are found in Bridges Administrative Manual I (BAM), Bridges Eligibility Manual (BEM) and 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. Department 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 400.5001-5015. *Id.*

BAM, BEM and RFT are the policies and procedures 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 policy item is, I will examine whether it was in fact followed in this case.

I find that BAM 105, "Rights and Responsibilities," 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 outset BAM 105 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 the agency must fulfill these duties, and the agency 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, the agency must protect client's rights. Stated another way, unless the client refuses to cooperate, the Agency is obligated to protect client rights. BAM 105 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.

I find and determine that as Claimant cooperated fully, DHS is required to protect her right to benefits. *Id.* In its Hearing Summary DHS states that Claimant failed to return her Redetermination application packet, but Claimant testified she never received it. There was no Department testimony that DHS sent a Redetermination packet to Claimant, nor was the Redetermination form presented at the Administrative Hearing. This lack of evidence on the part of the Department is consistent with Claimant's testimony that she never received it. I find and decide there was full cooperation by Claimant, and she should have the opportunity to receive and complete the Redetermination form.


In conclusion, based on the findings of fact and conclusions of law above, as Claimant was fully cooperative and did not refuse to cooperate with the verification process, I find and conclude that DHS erred in that it failed to protect the client's right to benefits. DHS is REVERSED. DHS is ORDERED to reinstate and reprocess Claimant's FAP, MA and CDC benefits and provide Claimant with all supplemental retroactive benefits to which she is entitled as of November 1, 2010 or other appropriate date.

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 HEREBY ORDERED that DHS shall:

1. Reinstatement and reprocess Claimant's FAP, MA and CDC benefits from November 1, 2010 to the present;
2. Provide Claimant with all supplemental retroactive benefits to which she is entitled as of November 1, 2011 or other appropriate date.

All steps 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: July 14, 2011

Date Mailed: July 14, 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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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/cl

cc:

