

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-44759
Issue Nos.: 2006, 3000
Case No.: [REDACTED]
Hearing Date: August 25, 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, which govern the administrative hearing and appeal process, and Claimant's request for a hearing. After due notice, a hearing was held by telephone on August 25, 2011, in Detroit, MI. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied Food Assistance Program (FAP) and Medical Assistance (MA or Medicaid) benefits to Claimant?

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 2011, DHS provided Claimant's children with FAP and MA (Other Healthy Kids program) benefits.
2. On March 2, 2011, DHS sent Claimant a Verification Checklist requesting employment information regarding her son, [REDACTED]. DHS requested the information be provided by March 14, 2011.
3. On March 16, 2011, Claimant submitted her son, [REDACTED] paycheck stub dated December 31, 2010.

4. On March 31, 2011, DHS sent Claimant a Notice of Case Action closing FAP benefits for all persons in the Claimant's family group.
5. On April 4, 2011, Claimant submitted the Verification of Employment form with her son's employment information. The Verification states that his last day worked was December 31, 2010, and his job was seasonal.
6. On April 19, 2011, DHS issued a Notice of Case Action approving MA benefits for Claimant's children but not for Claimant.
7. On June 28, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the United States Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. 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.*

The DHS manuals contain the policies and procedures DHS officially created for its own use. While the DHS policies and procedures are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. The manuals must be consulted in order to see what policies apply in this case. After setting forth what the applicable policies are, an analysis as to how they apply to the facts of this case will be presented.

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).

This opening section of BAM 105 means that DHS must fulfill these duties, and the 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, BAM 105 means that as long as the client is cooperating, DHS must protect client's rights. Stated another way, unless the client refuses to cooperate, DHS 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.

A second manual Item which is applicable in this case is BAM 130, "Verification and Collateral Contacts." BAM 130 states that with regard to FAP, if the client makes a "reasonable effort to provide" verification, DHS is required to accept it. Also, with regard to MA, DHS is required to grant three extensions *of unspecified length* in order for the client to provide verification. BAM 130, p. 5.

It is decided and concluded that a series of two separate erroneous events occurred in this case. First, with regard to FAP, it is decided and concluded that Claimant made a reasonable effort to provide verification of her son's employment, as she provided it two days after the requested deadline. Second, with regard to MA, it is decided and determined that DHS failed to provide Claimant with even one extension of a reasonable length, when DHS is required, by its own policies, to provide as many as three extensions of any length whatsoever. *Id.*

In conclusion, 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 and MA benefits and provide Claimant with all supplemental retroactive benefits to which she is entitled as of April 1, 2011, or other appropriate

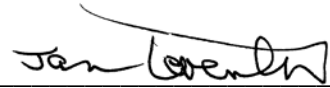
dates, for the FAP and MA programs. All steps shall be taken in accordance with all DHS policies and procedures.

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 HEREBY ORDERED that DHS shall:

1. Reinstate Claimant's FAP and MA benefits;
2. Initiate procedures to provide Claimant with supplemental retroactive FAP and MA benefits to which she is entitled as of April 1, 2011, or other appropriate dates.

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: August 31, 2011

Date Mailed: August 31, 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:

