

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2009-32048
Issue No: 2001;3004
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 3, 2009
Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on September 3, 2009.

ISSUE

Was the claimant's AMP benefits properly terminated because claimant was incarcerated?

Were the claimant's AMP and FAP application properly denied because claimant was incarcerated?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant was a recipient of AMP based Medicaid.
- (2) Claimant was incarcerated in October, 2008.

- (3) During this time, claimant's AMP case was closed.
- (4) Claimant did not get notice of this case closure, ostensibly because he was in jail.
- (5) There is no evidence that claimant ever notified the Department that he was in jail, and instead continued having mail sent to a different address.
- (6) Claimant reapplied for FAP and AMP benefits on July 14, 2009.
- (7) On claimant's DHS-1171, Application for Assistance, claimant stated that he was in jail, and was expected to be released on [REDACTED].
- (8) On July 22, 2009, claimant's application for assistance was denied, because claimant was currently incarcerated.
- (9) Claimant was notified to reapply for benefits when he was released from jail.
- (10) On July 31, 2009, claimant requested a hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM) and Reference Tables (RFT).

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

A claimant may not receive AMP benefits if incarcerated more than 30 days. BEM 265 states:

If the period of incarceration continues beyond thirty days the client is no longer eligible for AMP and the case should be closed.
BEM 265, page 3, found at:
<http://www.mfia.state.mi.us/olmweb/ex/bem/265.pdf>

For all other programs, an incarcerated claimant can only be eligible for benefits under very limited circumstances, as defined in BEM 265. BEM 265 does not state that a claimant is eligible for FAP benefits while incarcerated.

In the current case, claimant argues that his AMP benefits should never have been cut off, because he did not receive proper notice that his benefits were being terminated. The Administrative Law Judge finds this argument to be wholly without merit.

Even if the undersigned ignored the fact that the claimant was incarcerated for more than 30 days, and therefore was required by policy to be terminated from AMP, regardless of notice issues, the Department testified credibly that a termination notice had been sent. It is worth noting that the address to which the notice was sent was not the jail, but to another address, and that the claimant did not notify the Department of his change of residence to the Livingston County Jail. If the claimant did not receive notice of his termination, the undersigned believes

that the claimant can only blame himself, as the Department was not in possession of a correct address. Of course, if claimant had notified the Department of his change of address, the result would be the same; the benefit closure would still be processed.

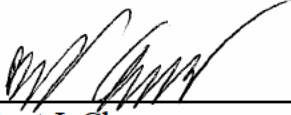
However, whether or not claimant received notice misses the main point: claimant lost all eligibility for AMP when he was incarcerated for more than 30 days. He does not dispute that he was incarcerated for more than 30 days. Claimant was never eligible for AMP to begin with.

With regard to his July 14, 2009 application, it is only worth noting that claimant was still incarcerated at the time. He was not eligible for FAP or AMP benefits, though he was allowed to apply for them on the date of his release. Institutionalized clients are only allowed to apply for benefits under certain circumstances, none of which apply in the current case. BEM 265. The Department was therefore correct to deny claimant's July 14, 2009 assistance application, though claimant may reapply now that he is no longer in jail.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was correct when it terminated claimant's AMP benefits. The Department was also correct when it denied claimant's assistance application of July 14, 2009.

Accordingly, the Department's decision in the above stated matter is, hereby,
AFFIRMED.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/29/09

Date Mailed: 10/30/09

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.

RJC/dj

cc:

