

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.: 201010746
Issue No.: 1033; 2027
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 25, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on August 25, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] Specialist, and [REDACTED] Specialist, appeared and testified.

ISSUES

1. Whether Claimant is entitled to a decision on Medical Assistance (MA) benefits beginning 4/2009.
2. Whether Claimant is entitled to Family Independence Program (FIP) benefits beginning 7/2009.

FINDINGS OF FACT

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

1. On 7/29/09, Claimant submitted an Assistance Application to DHS requesting MA and FIP benefits; Claimant also requested retroactive MA benefits going back to 4/2009.
2. Claimant listed her son, [REDACTED], as a household member.
3. At the time of Claimant's application, Claimant's son permanently resided in [REDACTED] and was visiting Michigan from approximately 7/2009 and 8/2009.
4. Claimant does not live with any other minor children nor is pregnant.

5. Claimant receives Supplemental Security Income (SSI).
6. On an unspecified date, DHS denied Claimant's request for FIP benefits.
7. DHS failed to process Claimant's request for MA benefits from 4/2009-7/2009.
8. Claimant requested a hearing on 10/15/09 disputing the denial of FIP benefits and the failure by DHS to process Claimant's request for MA benefits from 4/2009-7/2009.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) 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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

For all programs, a person must be a resident of Michigan. BEM 220 at 1. For purposes of FIP benefits, a person is a resident if he/she: is not receiving assistance from another state; is living in Michigan, except for a temporary absence, and intends to remain in the state permanently or indefinitely.

In the present case, Claimant testified that her son resided in [REDACTED] and came to Michigan only during the break in his school year. Claimant further testified that her son would return to [REDACTED] prior to 9/2009. Claimant's son had no intent to remain in Michigan other than the months he was visiting, 7/2009 and 8/2009. It is found that at the time of Claimant's 7/27/09 request for FIP benefits, Claimant's son was not a resident of Michigan.

As a non-resident, Claimant's son could not be a group member for Claimant's case. Claimant had no other basis for cash assistance. As an SSI recipient, Claimant was not

eligible for State Disability Assistance benefits. As a non-pregnant and non-caretaker of minor children, Claimant was not eligible to receive FIP benefits. BEM 210 at 10. It is found that DHS properly denied Claimant's request for FIP benefits as Claimant's child was not a Michigan resident and Claimant was not otherwise eligible for FIP or other cash benefits.

Regarding Claimant's request 7/29/09 request for MA benefits, DHS failed to adequately explain why Claimant was not eligible for 7/2009 MA benefits, the month of Claimant's application, and why Claimant was not allowed to pursue benefits for the three months prior to the month of application. Retro MA coverage is available back to the first day of the third calendar month prior to the application date. BEM 115 at 8.

If a group is ineligible for benefits, specialists are directed to certify the denial within the standard of promptness (45 days for MA benefits) to avoid receiving an overdue task in Bridges. Bridges sends a DHS 1605, Client Notice or the DHS-1150, Application Eligibility Notice, with the denial reason(s).

There was no evidence that Claimant was ever sent any decision regarding MA benefits from 4/2009-7/2009. It is found that DHS failed to process Claimant's request for MA benefits from 4/2009-7/2009.

Claimant's testimony hinted that her residency might be a factor in whether she is ultimately found eligible for MA benefits. However, the evidence indicated that DHS failed to make any written decision concerning Claimant's MA benefits request or that the failure by DHS to process Claimant's request was based on Claimant's lack of Michigan residency.

DECISION AND ORDER

The actions taken by DHS are partially AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's 7/29/09 application for FIP benefits.

The actions taken by DHS are partially REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to consider Claimant's eligibility for MA benefits from 4/2009-7/2009. It is ordered that DHS reinstate Claimant's 7/29/09 application for MA benefits

201010746/CG

(to include retroactive months) and to process the application in accordance with DHS policy.

/s/



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 27, 2010

Date Mailed: August 27, 2010

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.

CG / hw

cc:

