

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

IN THE MATTER OF:



Reg. No.: 2011-25707
Issue No.: 1001, 2003
Case No.: [REDACTED]
Hearing Date: April 21, 2011
DHS County: Oakland County (04)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37 ; MSA 16.437. After timely notice and upon the Claimant's request for a hearing a telephone hearing was held on April 21, 2011. The Claimant was present and testified.

ISSUE

Did the Department of Human Services (Department) properly close the Claimant's Family Independence Program (FIP) and Medical Assistance (MA)?

FINDINGS OF FACT

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

1. On April 1, 2011, the Department closed the Claimant's FIP and MA because the minor child member of the FIP group was about to turn 20 years of age.
2. On March 16, 2009, the Claimant filed a request for hearing.

CONCLUSIONS OF LAW

The 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 (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) and the Program Reference Manual (PRM).

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 (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 *et seq.* and MAC R 400.3101-3131. FIP 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 Program Reference Manual (PRM).

Here, the Department found the Claimant had become ineligible for MA and FIP because her child was 19 and was not going to graduate from high school before he turned 20. The Claimant argues that her son is going to summer school and she has been told that he will graduate before he turns 20.

FIP Ineligibles

Families no longer eligible for FIP might continue eligible for MA-only under LIF. Consider LIF first, then consider other categories...

A child has been excluded from the FIP program group because the child is emancipated, but the child lives with the group and is:

- Under age 18, or
- Age 18 or 19 and a full-time high school student who is expected to graduate before age 20.

BEM 110, p.2.

In addition:

Timely Hearing Request

All Programs

A hearing request is considered timely if it is received anywhere in the department:

- Within the pending negative action period.
- Within eleven days of the effective date of an immediate negative action (i.e., with adequate notice). When the 11th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday.

- Prior to the effective date of an automatic MA or AMP termination. The effective date on the DHS-1605 is the MA end date on CIMS (negative action code 095).

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, do one of the following that applies to the case:

Delete the pending negative action.

Reinstate program benefits to the former level for a hearing request filed because of an immediate negative action. BAM 600, p. 17.


Here, the Department closed the Claimant's MA even though she had requested a hearing before that closure.

This Administrative Law Judge finds that the Department violated the above policy and it should reinstate the Claimant's FIP and MA back to the date of closure, April 1, 2011, while replacing any lost benefits.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to reinstate the Claimant's FIP and MA back to the date of closure, April 1, 2011, while replacing any lost benefits.

The Department is also ORDERED to accept documentation that the Claimant's son is expected to graduate from high school before his 20th birthday. If the Claimant produces such documentation, the Department will continue the Claimant's FIP and MA until he turns 20 on [REDACTED].



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 17, 2011

Date Mailed: June 17, 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.

MJB/cl

cc:

