

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

IN THE MATTER OF:



Reg. No.: 201146525
Issue No.: 6019
Case No.:
Hearing Date: October 17, 2011
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on October 17, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included Alicia McNair, Family Independence Manager, and Robert Clay, Family Independence Specialist.

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|---|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input checked="" type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

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

1. Claimant applied for benefits received benefits for:

- | | |
|---|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input checked="" type="checkbox"/> Child Development and Care (CDC). |

2. On July 6, 2011, the Department
 denied Claimant's application closed Claimant's case
 due to (i) Claimant not being the primary caretaker of [REDACTED], (ii) [REDACTED]
 not meeting eligibility requirements and (iii) [REDACTED] being eligible for CDC
 program in another case.
3. On July 6, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
 notice of the denial. closure.
4. On July 8, 2011, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

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.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, Rule 400.3151 through Rule 400.3180.

☒ The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the 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. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, in this case, Claimant became the legal guardian of three grandchildren, [REDACTED] and [REDACTED] in February 2011. After becoming the children's guardian, Claimant applied for CDC benefits for all three children on February 23, 2011. At the hearing, Claimant credibly testified that the children were in her care from the time she applied for CDC benefits until the mother took the children from her home on [REDACTED]. She also credibly testified that the children's mother was not living in the home with her and the children during this period.

The Department denied Claimant's application on July 6, 2011, on the basis that (i) Claimant was not a caretaker relative of [REDACTED], (ii) [REDACTED] was not eligible because she did not meet child day care requirements, and (iii) [REDACTED] was eligible for CDC under another case. Because Claimant was the children's guardian beginning in February 2011 and their primary caretaker from February 23, 2011 to July 31, 2011, the Department improperly concluded that Claimant was not an eligible caretaker of [REDACTED]. Claimant, as the children's legal guardian, was entitled to apply for CDC benefits. BEM 205. The children's mother, who was not living in the home with the children and Claimant from February 23, 2011, to July 31, 2011, was not a member of Claimant's CDC group. BEM 205.

Further, the Department improperly denied Claimant CDC benefits as to [REDACTED] on the basis that she was eligible under another case. Although the Department claimed that all three children continued to be active in their mother's case even after they were placed in Claimant's care, upon further investigation, the Department conceded that the children's mother had not received any CDC benefits on behalf of the children from mid-February 2011 to September 10, 2011, when her case was closed. The fact that the mother did not use the benefits during the period the children were in Claimant's care, coupled with the fact that Claimant was the children's legal guardian and primary caretaker from February 23, 2011, to July 31, 2011, further supports the conclusion that the Department improperly denied Claimant's application for CDC benefits on the basis that any of the children continued to be active on their mother's case.

Finally, the Department's conclusion that [REDACTED] did not meet child day care requirements was not entirely accurate. While a child who is thirteen years old is not eligible for child care services absent special circumstances, BEM 703, [REDACTED] did not turn thirteen until March 10, 2011. Thus, [REDACTED] was an eligible child for CDC benefits through the end of the pay period during which her thirteenth birthday fell. BEM 703.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC.


DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
 did act properly. did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's February 23, 2011 CDC application;
2. Begin reprocessing the application;
3. Supplement Claimant's provider for CDC benefits for the eligible children from February 23, 2011 to July 31, 2011, in accordance with Department policy; and
4. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
 Administrative Law Judge
 for Maura Corrigan, Director
 Department of Human Services

Date Signed: 10/19/11

Date Mailed: 10/19/11

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/dj

cc:

