

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

IN THE MATTER OF:



Reg. No.: 201240612
Issue No.: 2015; 3014
Case No.: [REDACTED]
Hearing Date: April 19, 2012
County: Wayne (15)

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 April 19, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's case for Medical Assistance (MA) based on the removal of Claimant's minor child from his household?

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits based on the removal of Claimant's minor child from his FAP group?

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 for: received benefits for:

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

2. On April 1, 2012, the Department denied Claimant's application closed Claimant's MA case reduced Claimant's FAP benefits due to the removal of Claimant's minor child from Claimant's household.
3. On March 13, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. MA closure. FAP reduction.
4. On March 16, 2012, Claimant or Claimant's AHR filed a hearing request, protesting the denial of the application. closure of the MA case. reduction of FAP benefits.

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

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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (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.

MA Eligibility

The Department testified that Claimant had been receiving MA as a parent of a minor child. In this case, Claimant and the child's mother lived in separate households, and Claimant testified that they both cared for the child. For all Group 2 FIP-related MA, when a child lives with both parents who do not live with each other (for example, child lives with his mother two weeks each month and his father the other two weeks), only one parent, the primary caretaker, is in the MA fiscal group. BEM 211. The Department determines the child's primary caretaker based on the parent who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half the days in a month, when averaged over a twelve month period. BEM 211.

In this case, Claimant did not include his minor child on the State Emergency Relief (SER) application he filed on March 8, 2012, when asked to list the members of his household, including children. Furthermore, in the portion of the application where he was asked to list the number of household members for the last six months, Claimant listed one. At the hearing, Claimant testified that he erred when he completed the application and should have included his minor son as a household member. However, the Department could properly rely on the information on the March 8, 2012, SER application completed by Claimant to conclude that Claimant was not the child's primary caretaker for MA purposes. Accordingly, Claimant was not eligible for FIP-related MA coverage based on his status as the parent of a minor child.

At the hearing, the Department testified that Claimant was not eligible for any other MA program other than Adult Medical Program (AMP) but there was an enrollment freeze on that program. An individual may receive Medical Assistance (MA) coverage if the individual is aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled or if the individual has dependent children, is the caretaker relative of dependent children, or is under age 21 and pregnant or recently pregnant. BEM 105. Adult Medical Program (AMP) provides limited medical services for persons not eligible for MA coverage. BEM 100.

At the hearing, Claimant verified that he was not a senior or disabled. Therefore, under the facts in this case, the Department acted in accordance with Department policy when it found that Claimant was not eligible for MA coverage or, because AMP coverage was not available due to the enrollment freeze, AMP coverage.

FAP Group Composition

When a child spends time with multiple caretakers who do not live together, such as joint physical custody situation, the child is in the FAP group of the primary caretaker. BEM 212. The primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. BEM 212.

In this case, because Claimant indicated in his March 8, 2012, SER application that he was the only member of his household, the Department could properly rely on this information to establish that Claimant was not his minor child's primary caretaker for FAP purposes. Thus, the Department properly excluded the child from Claimant's FAP group.

Although the Notice of Case Action reducing Claimant's FAP benefits indicated that Claimant's fiancée, not his son, had been removed from his FAP group, the Department testified at the hearing that Claimant's son was also removed from the FAP group. At the hearing, Claimant confirmed that his fiancée was no longer living in his home. Because the Department could properly conclude based on Claimant's SER application that Claimant's FAP group consisted only of Claimant and because the decrease in FAP benefits to \$200 per month was the maximum FAP benefit available to a single-member FAP group, any error by the Department in identifying the FAP member removed from Claimant's FAP group was harmless under the circumstances in this case.

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 improperly

- denied Claimant's application
- reduced Claimant's FAP benefits
- closed Claimant's MA case

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


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

Date Signed: April 20, 2012

Date Mailed: April 20, 2012

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/hw

cc:

