

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

**IN THE MATTER OF:**



Reg. No.: 2012-5028  
Issue No.: 2027; 3014  
Case No.: [REDACTED]  
Hearing Date: December 19, 2011  
County: Wayne County

**ADMINISTRATIVE LAW JUDGE:** Susan C. Burke

**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 December 19, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included A. Sims, ES and T. Carter, FIM.

**ISSUE**

Did the Department properly close Claimant's benefits for Medical Assistance (MA)?

Did the Department properly determine Claimant's group composition for benefits under the Food Assistance Program (FAP)?

**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 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. Claimant's MA case was closed on October 1, 2011, due to Claimant not being disabled.
3. Claimant was disabled at the time of the closure of her MA case.
4. Claimant was the primary caretaker of her granddaughter as of the month of May of 2011.
5. Claimant's granddaughter was active on another Department's case for FAP as of May of 2011.
6. The Department denied Claimant's request to place her granddaughter on her FAP case due to Claimant's granddaughter being active on another FAP case.
7. On September 22, 2011, Claimant filed a hearing request, protesting the  group composition of her FAP case.  closure of her granddaughter's MA case.
8. At the hearing, Claimant stated she no longer requested a hearing regarding her granddaughter's MA, as her granddaughter is active on MA.
9. At the hearing, Claimant also requested clarification of her own MA status.

### **CONCLUSIONS OF LAW**

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

#### **Medical Assistance**

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 400.10.

There are MA categories for clients who are:

- Age 65 or older, blind, or disabled.
- Pregnant or recently pregnant.
- Caretaker relatives of dependent children.
- Under age 21.
- Refugees.

BEM 640, p.1

In the present case, with regard to MA, Claimant testified credibly that she has been determined to be disabled due to a hearing impairment and she has received SSI for several years. The Department did not dispute this information. The Department was not correct, therefore, in closing Claimant's case due to Claimant not being disabled.

Claimant also stated that she was no longer requesting a hearing with regard to her granddaughter's MA as her granddaughter's MA is currently active.

### **Food Assistance Program**

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.

With regard to FAP benefits, the Department failed to follow policy and procedures in processing Claimant's submissions showing that her grandchild was in her care as of May, 2011. See BEM 212:

Department policy dictates that the Department must:

Re-evaluate primary caretaker status when:

- A new or revised court order changing custody or visitation is provided.
- There is a change in the number of days the child sleeps in another caretaker's home and the change is expected to continue, on average, for the next twelve months.
- A second caretaker disputes the first caretaker's claim that the child(ren) sleeps in their home more than half the nights in a month, when averaged over the next 12 months.
- A second caretaker applies for assistance for the same child.

BEM 212 , p. 4

When primary caretaker status is questionable or disputed, base the determination on the evidence provided by the caretakers. Give each caretaker the opportunity to provide evidence supporting his/her claim. Suggested verifications include:

- The most recent court order that addresses custody and/or visitation.

- School records indicating who enrolled the child in school, first person contacted in case of emergency, and/or who arranges for child's transportation to and from school.
- Child care records showing who makes and pays for child care arrangements, and who drops off and picks up the child(ren).
- Medical providers' records showing where the child lives and who generally takes the child to medical appointments.  
BEM 212, p. 10.

In the present case, Claimant presented credible evidence that she informed the Department that she was her granddaughter's primary caretaker as of May, 2011. Claimant submitted to the Department on June 9, 2011 a copy of a police report indicating that Claimant was living with her. Claimant also submitted copies of court documentation which culminated in Claimant receiving full guardianship on August 17, 2011. The Department did not follow its own policy in evaluating Claimant's primary caretaker claim. I find that Claimant was the primary caretaker of her granddaughter as of May, 2011. However, Claimant did not file a request for a hearing on the matter until September 22, 2011, so this Administrative Law Judge may only look back three months prior to the date of hearing request filing to order relief for Claimant. See BAM 600.

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 improperly determined Claimant's group composition for FAP and improperly closed Claimant's MA case.

### **DECISION AND ORDER**

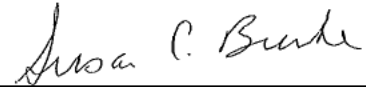
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department  did act properly.  did not act properly.

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

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

1. Initiate recalculation of Claimant's FAP benefits, effective June 24, 2011 and ongoing, which recalculation shall include Claimant's granddaughter in the FAP group.
2. Initiate issuance of FAP supplements, June 24, 2011 and ongoing, if Claimant is otherwise eligible for FAP.
3. Initiate reinstatement of Claimant's MA case, effective October 1, 2011, if Claimant is otherwise eligible for MA.

It is further ORDERED that Claimant's request for hearing regarding CDC is DISMISSED, as Claimant stated he was no longer requesting a hearing regarding CDC. BAM 600.



Susan C. Burke  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 12/29/11

Date Mailed: 12/29/11

**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

SCB/sm

cc: 