

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

IN THE MATTER OF:



Reg. No: 201265785
Issue No: 1005, 2015, 3014
Case No: [REDACTED]
Hearing Date: August 21, 2012
Genesee County DHS #6

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on August 21, 2012. The claimant personally appeared and provided testimony.

ISSUES

1. Whether the department properly closed the claimant's Family Independence Program (FIP) benefits for failure to cooperate by not submitting the requested verifications?
2. Whether the department properly closed the claimant's case for Medical Assistance (MA) benefits?
3. Whether the department properly closed the claimant's case for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The claimant was a recipient of FIP, FAP, and MA benefits.
2. On June 1, 2012, the department closed the claimant's FIP case. (Department Exhibit 34).
3. On June 21, 2012, the claimant entered a nursing home. (Department Hearing Summary).

4. On July 1, 2012, the department closed the claimant's FAP case due to her admission into the nursing home. (Department Hearing Summary, Department Exhibits 35-36).
5. On August 1, 2012, the department closed the claimant's MA case due to her admission into the nursing home. (Department Hearing Summary, Department Exhibits 37-39).
6. The claimant filed a hearing request on July 14, 2012, protesting the closure of her FAP, FIP, and MA cases.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 (DHS or department) 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 Bridges Reference Manual (BRM).

In relation to a claimant's responsibilities in obtaining the verifications needed for the department to make a determination as to eligibility or continuing eligibility, policy states as follows:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM 105.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM 105.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM 105.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see "**Timeliness Standards**" in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. BAM 130.

Timeliness Standards

FIP, SDA, CDC, FAP

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. BAM 130.

Exception: For CDC only, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has **not** made a reasonable effort to provide it. BAM 130.

Regarding the termination of the claimant's FIP benefits, the department representative testified that the claimant's FIP benefits were closed because she failed to comply by not submitting verifications as requested by the department. However, the department representative was not able to identify specifically what verification was requested, what verification (if any) was received, and what verification was not received by the department. The claimant testified that she supplied all of the verifications requested by the department. Because the department was not able to state what verification was requested and what verification was not received, the Administrative Law Judge finds that the department has not met its burden of going forward to show that the action taken was in accordance with policy. Accordingly, the Administrative Law Judge finds that the department did not properly close the claimant's case for FIP benefits.

The Medical Assistance (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 of Human Services (DHS or department) 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).

In this case, the claimant was a recipient of LIF (low income family) MA benefits. LIF MA benefits are offered under a FIP-related Group 1 MA category. BEM 110. Generally, LIF benefits are available to groups with dependent minor children. Therefore, for a claimant to be eligible for LIF MA benefits, the claimant must (generally) be the caretaker of a minor child. In this case, the department closed the claimant's MA benefits under the LIF program because the claimant had moved into the nursing home and was no longer living with her minor children. The department worker testified that the claimant's LIF case was closed, but that the claimant was pending an eligibility determination for MA benefits based on disability. In relation to the termination of LIF benefits, policy states as follows:

LOW INCOME FAMILY TERMINATION

You **must** determine if MA eligibility exists under any other category before terminating MA for LIF or FIP recipients. Commonly applicable policies are mentioned below.

Note: An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories. See BAM 115 and 220. BEM 110, page 2, (January 1, 2011).

Here, the department did properly determine that the claimant was no longer living with her minor children and therefore is not eligible for LIF MA benefits. However, the department representative testified that the claimant's MA eligibility based on disability is pending and awaiting a determination from the Medical Review Team (MRT). Therefore, there has not been a determination as to if MA eligibility exists under any other category. Accordingly, the Administrative Law Judge finds that the department prematurely terminated the claimant's LIF MA benefits as there had not been a determination of MA eligibility completed relating to the claimant's eligibility under any other category.

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In relation to the claimant's FAP eligibility, the department representative testified that the claimant's FAP benefits were closed due to the claimant's move to the nursing

home. Policy does provide for situations where an individual is not eligible for benefits based on their living situation. Policy states as follows:

LIVING SITUATIONS

The following policies describe living situations which create ineligibility for FAP or which must meet specific requirements to allow eligibility.

Residents of Institutions

A person is a resident of an institution when the institution provides the majority of his meals as part of its normal services. Residents of institutions are **not** eligible for FAP unless one of the following is true:

- The facility is authorized by the Food and Consumer Service to accept FAP benefits.
- The facility is an eligible group living facility; see BEM 615.
- The facility is a medical hospital and there is a plan for the person's return home; see **Temporary Absence** in this item. BEM 212, pages 5-6 (April 1, 2012).

The claimant testified that she was provided food by the nursing home but that the home would not provide food for her children. Therefore, the claimant herself was not eligible for FAP benefits as a result of her being placed in the nursing home. The claimant's group therefore no longer exists and FAP benefits cannot continue. Accordingly, the department properly terminated the claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed the claimant's case for FAP benefits. However, the Administrative Law Judge finds that the department improperly closed the claimant's cases for FIP and MA benefits.

Accordingly, the department's actions pertaining to the claimant's FAP benefits are **AFFIRMED**.

It is SO ORDERED.

Additionally, the department's actions pertaining to the claimant's MA and FIP benefits are **REVERSED**.

It is HEREBY ORDERED that the department shall initiate a redetermination of the claimant's eligibility for MA and FIP benefits as of the dates of negative action (June 1, 2012 for the claimant's FIP benefits and August 1, 2012 for the claimant's MA

benefits). If the claimant is found to be otherwise eligible, the department shall reinstate the claimant's MA benefits pending a determination from MRT and if, applicable, issue any past due benefits that may be due and owing. Furthermore, if the claimant is found to be otherwise eligible, the department shall reinstate the claimant's FIP benefits and, if applicable, issue any past due benefits due and owing that the claimant is otherwise eligible to receive.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 18, 2012

Date Mailed: September 19, 2012

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 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.

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