

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-72173
Issue Nos.: 3000, 6019
Case No.: [REDACTED]
Hearing Date: September 26, 2012
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

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 September 26, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

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"/> 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:

- Family Independence Program (FIP).
- Adult Medical Assistance (AMP).
- Food Assistance Program (FAP) (active case).
- State Disability Assistance (SDA).
- Medical Assistance (MA).
- Child Development and Care (CDC) (application).

2. On August 31, 2012, the Department
 denied Claimant's application closed Claimant's case
due to the presence of an adult in the home who is available to provide childcare
services.
3. On August 31, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On August 20, 2012, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.
5. Claimant's hearing request included a dispute regarding FAP benefits. However, at
the hearing, Claimant requested that the Administrative Law Judge dismiss the FAP
issue.

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 AACCS, 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, at the hearing, Claimant testified that she did not wish to continue her complaint regarding FAP benefits and requested that it be dismissed from her case. The Department had no objection. Based on the record in this case, the FAP issue shall be dismissed.

With regard to CDC, it is found and determined that Claimant applied for CDC benefits on March 5, 2012. Claimant submitted a doctor's letter regarding her husband's disability to the Department in support of her application.

On August 31, 2012, the Department denied her application. Claimant in this hearing raises the issue that the Department did not make its decision within forty-five days as required. This allegation of a violation of the time limits is a quality of service issue over which the undersigned has no authority.

Claimant's second issue is that [REDACTED], her husband, who is the second adult in the home, is disabled. Claimant argues that because her husband is disabled, he is, in fact, unavailable to provide childcare.

BEM 703 (2012), "CDC Program Requirements," states that when a parent is "unable to provide care due to a condition for which they are being treated by a physician," CDC payments may be approved. BEM 703 (2012), p. 4.

It is found and determined that BEM 703 applies in this case, and the Department erred in not applying it correctly. BEM 703 does not require a finding of disability by the Department or the U.S. Social Security Administration. BEM 703 requires a lesser amount of proof of disability for CDC benefits than for disability-related benefits related to medical impairment and health care.

Accordingly, based on the entire record, including the subsequent research into the applicable law in this case, and notwithstanding the undersigned's statement on the record that Claimant is ineligible, it is found and determined that the Department erred in its application of BEM 703 and the Department must be reversed. The Department

shall be ordered to reinstate Claimant's application and reprocess it applying the policy and procedures contained in BEM 703.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated in this opinion and 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.

It is further determined that the Claimant's request to dismiss the FAP issue from this case shall be GRANTED.

DECISION AND ORDER

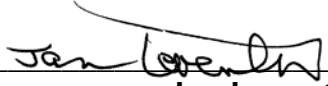
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
 did act properly. did not act properly.

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. Reinstate Claimant's March 5, 2012, CDC application.
2. Initiate procedures to reprocess Claimant's application and redetermine her eligibility for CDC benefits.
3. Initiate procedures to provide retroactive and ongoing CDC benefits to Claimant at the benefit level to which she is entitled.
4. All steps shall be taken in accordance with Department policy and procedure.

The Claimant's FAP complaint is hereby DISMISSED from this case.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 3, 2012

Date Mailed: October 3, 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

JL/pf

cc:

