

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201278156  
Issue No.: 2018; 3016  
Case No.: [REDACTED]  
Hearing Date: November 8, 2012  
County: Wayne (19)

**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 November 8, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED] Assistance Payment Supervisor.

**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 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)?  |
| <input type="checkbox"/> Direct Support Services (DSS)?            |   |

**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).  |
| <input type="checkbox"/> Direct Support Services (DSS).            |   |

2. On August 30, 2012, the Department denied Claimant's FAP application due to ineligible student status and denied the MA application with respect to Claimant's boyfriend, due to the boyfriend not being a specified relative.
3. On August 30, 2012, the Department sent  
 Claimant       Claimant's Authorized Representative (AR)  
notice of the       denial.       closure.
4. On September 14, 2012, Claimant filed a hearing request, protesting the  
 denial of the application.       closure of the case.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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 Mich Admin Code, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 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 Mich Admin Code, R 400.3151 through R 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 Mich Admin Code, R 400.5001 through R 400.5015.

Direct Support Services (DSS) is administered by the Department pursuant to MCL 400.57a, et. seq., and Mich Admin Code R 400.3603.

Additionally, on August 23, 2012, Claimant applied for MA and FAP benefits for herself and for her boyfriend, with whom she lived.

#### MA Application

The Department approved MA for Claimant but denied MA for her boyfriend on the basis that he was not a specified relative and would have to apply on his own. An MA application may be made on behalf of someone by another person provided the person is at least age 18 or married. BAM 110 (May 1, 2012), p 8. However, if this person is not a spouse, parent, legal guardian, adult child, stepchild, or specified relative, the person must have a signed authorization to act on behalf of the client, signed by the client, client's spouse, parent(s) or legal guardian. BAM 110, p 8; see also BEM 211 (January 1, 2012). In this case, Claimant applied for MA for herself and for her boyfriend. Because her boyfriend was not one of the relatives specified under policy and there was no evidence that he had signed any authorization for Claimant to act on his behalf, the Department acted in accordance with Department policy when it denied the MA application for Claimant's boyfriend on the basis that he had to apply for MA benefits himself.

#### FAP Application

The Department denied Claimant's FAP application on the basis that she and her boyfriend were both ineligible students.

Claimant's application indicated that both she and her boyfriend were full-time college students. Unless they meet one of the eligibility criteria, clients age 18 through 49 are not eligible for FAP benefits if they are enrolled half-time or more in a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245 (October 1, 2011), pp 2-3.

One of the criteria that makes a student eligible for FAP benefits is being employed at least 20 hours per week and being paid for such employment. In her application, Claimant indicated that she worked 18 hours per week. Because Claimant was not employed for at least 20 hours per week, the Department properly concluded that Claimant was an ineligible student for FAP purposes. Although Claimant testified that beginning in September 2012 she began working 23 hours per week, the Department properly considered Claimant's statements in her application and the circumstances in

existence at the time of the August 23, 2012, application when it determined her eligibility for FAP benefits. See BAM 130 (May 1, 2012), p 1.

The Department also determined that Claimant's boyfriend was an ineligible student. Another criterion that makes a student eligible for FAP benefits is if he is physically or mentally unfit for employment. BEM 245, p 3. In this case, the Department reviewed Claimant's application during the hearing and testified that Claimant indicated in her application that her boyfriend had neck and back injuries and that he was unable to work. Therefore, Claimant's boyfriend had a basis for establishing FAP eligibility if he could verify his physical unfitness to work in accordance with Department policy. Thus, the Department did not act in accordance with Department policy when it concluded the Claimant's boyfriend was an ineligible student without considering his fitness to work as identified on the application.

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 denied Claimant's MA application for her boyfriend and her FAP application.

### **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 with respect to denying the MA application for Claimant's boyfriend.
- did not act properly with respect to denying the FAP application.

Accordingly, for the reasons stated above and on the record, the Department's decision is  AFFIRMED  REVERSED  AFFIRMED IN PART with respect to denying Claimant's MA application for her boyfriend and REVERSED IN PART with respect to denying Claimant's FAP application.

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 August 23, 2012 application;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision to consider Claimant's boyfriend's student eligibility for FAP benefits;
3. Issue supplements to Claimant for any FAP benefits her FAP group was eligible to receive but did not from August 23, 2012, ongoing; 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: 11/14/2012

Date Mailed: 11/14/2012

**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:

