

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20130850
Issue No.: 2006; 3008; 3025
Case No.: [REDACTED]
Hearing Date: February 6, 2013
County: Oakland (03)

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 February 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) and Medical Assistance (MA) benefits due to noncooperation with child support?

Did the Department properly conclude that Claimant's husband was not eligible for FAP benefits because he was an ineligible alien?

FINDINGS OF FACT

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

1. On November 26, 2012, Claimant applied for MA and FAP benefits.
2. On December 18, 2012, the Department sent Claimant a Notice of Case Action denying her FAP application on the basis that (i) she was not in cooperation with her child support reporting obligations and (ii) her husband was not an eligible alien.

3. On December 27, 2012, Claimant filed a hearing request, disputing the Department's action.

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 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 2000 ACS, 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.

Additionally, Claimant filed an application for FAP and MA benefits on November 26, 2012. On December 18, 2012, the Department sent Claimant a Notice of Case Action

approving MA coverage for Claimant's husband and their two children and denying the FAP benefits for all the group members on the basis that Claimant had failed to cooperate with child support requirements and her husband was ineligible because of his alien status. While the Notice of Case Action did not address Claimant's MA, the Department verified at the hearing that Claimant applied for MA for herself and that her MA application was denied because of her noncooperation with child support reporting obligations.

A client's cooperation with paternity and obtaining child support is a condition of FAP and MA eligibility. BEM 255 (December 1, 2011), p 1. Failure to cooperate without good cause results in disqualification for the adult member who fails to cooperate. BEM 255, 9-10, 11.

In this case, the Department testified that the child support noncooperation at issue should have been removed from Claimant's record as of August 20, 2012, when Claimant reported to the Department that her husband, the children's father, had moved back into the household. While the Office of Child Support (OCS) entered a compliance date for Claimant in January 2013, the Department testified that the compliance date should have been in August 2012. An attempt was made to contact the OCS agent involved in this case, but the agent did not respond to the call. Because the Department acknowledged that Claimant was in compliance with child support reporting obligations as of August 2012, the Department did not act in accordance with Department policy when it denied Claimant's application for FAP and MA on the basis of the noncompliance. It is further noted that Claimant's noncompliance should not have prevented the Department from processing Claimant's application for FAP benefits for the remaining members of her FAP group. See BEM 255, p 11.

The December 18, 2012 Notice of Case Action denying Claimant's FAP application also indicated that Claimant's husband was not eligible for FAP because he was not a citizen or eligible alien. A person must be a U.S. citizen or have an acceptable alien status to receive FAP benefits, and individuals who do not meet this requirement are disqualified. BEM 225 (January 1, 2012), p 1. Acceptable status includes individuals who are refugees admitted to the U.S. under section 207 of the INA, including Iraqi and Afghan special immigrants. The Department testified that Claimant provided verification that her husband was a refugee eligible for FAP benefits on December 27, 2012, after the application had been denied. Although Claimant testified that she had previously provided the Department with Permanent Resident Cards for the family, establishing the group's refugee status, the Department credibly testified that it only had copies of Permanent Resident Cards for Claimant and the two children. The Notice of Case Action indicates that the Department attempted to verify Claimant's husband's alien status but was unable to obtain a match. Therefore, the Department acted in accordance with Department policy when it concluded that Claimant's husband was not eligible for FAP benefits based on the information available to it at the time it processed Claimant's application. But see BAM 115 (November 1, 2012), p 18 (regarding subsequent processing when verification is received within 60 days of the date of 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 when

did not act properly when denied Claimant's FAP and MA application based on Claimant's noncooperation with child support obligations.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

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

1. Remove the child support noncooperation from Claimant's record;
2. Reregister Claimant's November 26, 2012 FAP and MA application;
3. Begin recalculating Claimant's FAP eligibility and benefits, in accordance with Department policy and consistent with this Hearing Decision, for November 26, 2012, ongoing; and
4. Issue supplements for any FAP benefits Claimant was otherwise eligible to receive but did not from November 26, 2012, ongoing;
5. Begin processing Claimant's MA eligibility as of November 1, 2012; and
6. Provide Claimant with MA coverage she is eligible to receive from November 1, 2012, ongoing.



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

Date Signed: February 8, 2013

Date Mailed: February 8, 2013

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:

