

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-28404
Issue Nos.: 1022, 2018
Case No.: [REDACTED]
Hearing Date: May 30, 2013
County: Oakland (63-02)

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 May 30, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and her grandchildren's Medical Assistance (MA) coverage?

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 is the legal guardian of her three grandchildren who live in her home with her.
2. Claimant received FIP benefits for the three children as an ineligible grantee.
3. The children received MA coverage under Claimant's case.
4. Claimant was requested to provide information regarding [REDACTED], the children's mother, by the Office of Child Support.

5. In April 2010, Claimant's daughter, the mother of the three children over whom Claimant has guardianship, moved into the home with Claimant and the children.
6. On November 10, 2012, the Department sent Claimant a Notice of Case Action notifying her that effective December 1, 2012, her FIP case would close because she had failed to cooperate with child support.
7. On January 2, 2013, the Department sent Claimant a Notice of Case Action notifying her that effective February 1, 2013, the children's MA cases would be closed because the children were ineligible and Claimant requested that assistance be stopped.
8. On January 31, 2013, Claimant filed a request for hearing disputing the Department's actions.

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 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.

FIP Case Closure

Claimant, who was the legal guardian of the three grandchildren living in her home, received FIP on the children's behalf as an ineligible grantee. The November 16, 2012, Notice of Case Action closing Claimant's FIP case explained that the case was being closed because Claimant had failed to cooperate in securing child support. The Department presented no evidence at the hearing to support the closure of the case based on noncooperation with child support. Furthermore, the Department could not verify that the Office of Child Support (OCS) was contacted in connection with Claimant's hearing request. However, the Department contended that, although it initially closed Claimant's FIP case because of the child support noncooperation, Claimant was also ineligible for FIP benefits because the children's mother was in the

home with Claimant and the children. When a legal guardian is receiving FIP for a child and the parent of the eligible child returns home, the legal guardian's FIP case will be terminated. BEM 210 (January 2013), pp. 9-10. In this case, Claimant acknowledged that her daughter, [REDACTED] the children's mother, moved into her home with the children in April 2010. Thus, the Department acted in accordance with Department policy when it closed Claimant's FIP case based on the children's mother's return to Claimant's home.

It is noted that policy provides that if the parent applies and is found eligible for FIP, the legal guardian must be made the protective payee for the parent's FIP. BEM 210, p. 10; BAM 420 (May 2013), p. 5. There was evidence presented at the hearing that Claimant's daughter had applied and been approved for FIP but no evidence that Claimant was the protective payee of the daughter's FIP benefits. Claimant is advised to discuss this matter with the Department.

Closure of the Children's MA Cases

The Department also contended that Claimant was not eligible to seek MA coverage for the children while the children's mother was in the home. A legal guardian may apply for MA on behalf of a child. See BAM 110 (January 2013), p. 8. When a specified relative other than a parent who claims to act as parent of a dependent child (such as a grandparent) and the child's parent both live with the child, the client's statement regarding who acts as the parent must be accepted unless the parent disputes the designation. BEM 135 (January 2011), pp. 1-2, 4-5. However, in determining a child's eligibility for MA coverage under the Other Healthy Kids (OHK) program, the Department must consider the fiscal group which includes the child's parent who lives with the child. BEM 131 (October 2010), p. 2; BEM 211 (November 2012), p. 4.

In this case, Claimant, as the children's legal guardian, applied for MA for the children. Although she did not seek MA for herself, the evidence established that she was the children's caretaker. Thus, while policy requires that the Department consider the mother in determining the Claimant's grandchildren's eligibility for MA, it does not preclude Claimant from serving as the head of household for the children's MA cases. Thus, the Department did not act in accordance with Department policy when it closed the children's MA cases.

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 acted in accordance with Department policy when it closed Claimant's FIP case but did not act in accordance with Department policy when it closed the grandchildren's MA cases.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to closure of the FIP case and REVERSED IN PART with respect to closure of the grandchildren's MA cases.

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

1. Begin reinstating Claimant's grandchildren's MA cases effective February 1, 2013; and
2. Begin providing MA coverage to the children that they are eligible to receive from February 1, 2013, ongoing.



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

Date Signed: June 12, 2013

Date Mailed: June 13, 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 affect 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

2013-28404/ACE

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

