

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-40285
Issue No.: 2018
Case No.: [REDACTED]
Hearing Date: May 22, 2013
County: Oakland (63—02)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, an in-person hearing was held on May 22, 2013, in Madison Heights, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]. 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"/> 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)? |

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 July 2, 2012, Claimant applied for Medical Assistance (MA).
2. On February 27, 2013, the Department denied Claimant's application closed Claimant's case due to not being a Michigan resident.

3. On February 27, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On April 4, 2013, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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 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.

In the instant case, Claimant was in Michigan visiting his family. Claimant was injured and was hospitalized. Claimant's representative filed an application on Claimant's behalf on July 2, 2012. The Department processed Claimant's application and determined that Claimant was not eligible for MA benefits since he failed to fulfill the residency requirements. Claimant testified he arrived a few days before June 11, 2012, to visit a newborn grandson.

The Department cites BEM 220 (January 2012), pp. 1-2. This policy indicates in order to be considered a Michigan resident, a person must meet one of the following:

- The individual lives in Michigan, except for a temporary absence, **and** intends to remain in Michigan permanently or indefinitely. If the individual indicates an intent to remain in Michigan, but his official USCIS documents indicate a **temporary or time-limited period** to the visit, the individual does **not** meet the intent to remain requirements, unless he verifies that official steps are being taken with USCIS to apply for lawful permanent resident status; see BEM 225.
- The individual or a member of the MA fiscal group has entered the state of Michigan for employment purposes, and
 - Has a job commitment, or
 - Is seeking employment.

Claimant, as indicated, was visiting Michigan when he was injured. Claimant and his spouse own a home in Illinois. Claimant indicated on his application he intends to stay in Michigan indefinitely. Claimant also intends or desires to return to his home in Illinois in the future. He was not living in Michigan prior to the application. Claimant asserts that his intent to stay indefinitely and the fact he is still in Michigan demonstrate residency. Claimant's spouse appears to be going back and forth between the two homes tending to both Claimant, when possible, and their minor daughter who remains in Illinois.

Upon reviewing the above policy, this Administrative Law Judge finds it is not simply the intent to stay indefinitely but also the requirement the individual lived in Michigan. While this policy allows for a temporary absence, the policy clearly distinguishes the need to be living in Michigan. Claimant, as indicated above, came to Michigan for a visit - not to live. Claimant has not demonstrated he was living in Michigan prior to his application for benefits.

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

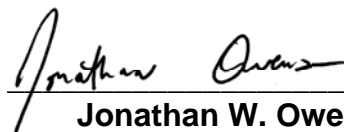
- properly denied Claimant's application improperly denied Claimant's application
- properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC.

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.



Jonathan W. Owens
 Administrative Law Judge
 for Maura Corrigan, Director
 Department of Human Services

Date Signed: June 5, 2013

Date Mailed: June 5, 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:
 - 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

JWO/pf

cc:

