

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

IN THE MATTER OF:



Reg. No.: 2013-48225
Issue Nos.: 2009, 3009
Case No.: [REDACTED]
Hearing Date: June 19, 2013
County: Wayne (82-17)

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 June 19, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

1. Did the Department properly deny Claimant's February 21, 2013, application for Food Assistance Program (FAP) and Medical Assistance (MA) benefits?
2. Did the Department fail to process Claimant's Adult Medical Program (AMP) application?

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 February 21, 2013, Claimant applied for FAP and MA benefits.
2. On February 22, 2013, the Department sent Claimant a Notice of Case Action denying the FAP application because he was ineligible due to having at least two drug-related felonies since August 22, 1996.
3. On May 3, 2013, the Department sent Claimant a Notice of Case Action denying his MA application because he was not under 21 or over 65, pregnant, the caretaker of a minor child, blind or disabled.

4. On May 9, 2013, Claimant filed a request for hearing disputing the Department's denial of his FAP and MA application.

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 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.*

On February 21, 2013, Claimant applied for FAP and MA benefits. The Department denied both applications, and Claimant requested a hearing. At the hearing, Claimant also alleged that he had filed an AMP application that the Department did not process.

FAP Denial

In a February 22, 2013, Notice of Case Action, the Department denied Claimant's FAP application based on his convictions for drug-related felonies. BEM 203 (October 1, 2012), p. 2, provides that

“[a]n individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times in separate periods will be permanently disqualified if both offenses occurred after August 22, 1996.”

At the hearing, Claimant admitted he had two drug-related felonies that occurred after [REDACTED]. Thus, the Department acted in accordance with Department policy when it concluded that Claimant was not eligible for FAP and denied his FAP application.

MA Denial

The Department acknowledged that the denial of Claimant's MA application in the February 22, 2013, Notice of Case Action appeared to be made in error. The Department testified that Claimant submitted a completed medical packet that was forwarded to the Medical Review Team (MRT) and, based on the documentation provided, MRT concluded that Claimant was not disabled because his impairment lacked the 12-month duration requirement. Based on MRT's finding, the Department sent Claimant a May 3, 2013, Notice of Case Action, denying his MA application because he was not disabled, blind, pregnant, the parent/caretaker relative of a dependent child, under 21, or over 65, and indicated that a disability/blindness determination had been made by MRT.

An individual may receive MA coverage if he qualifies under an FIP-related MA category or an SSI-related MA category. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare, or formerly blind or disabled. BEM 105 (October 1, 2010), p. 1. To receive MA under an FIP-related category, the person must have dependent children, be a caretaker relative of dependent children, be under age 21, or be a pregnant or recently pregnant woman. BEM 105, p. 1; BEM 132 (October 1, 2010), p. 1. Based on the evidence presented at the hearing and MRT's finding that Claimant was not disabled, the Department acted in accordance with Department policy when it sent Claimant the May 3, 2013, Notice of Case Action denying his MA application because he did not meet any of the eligibility requirements. See BAM 815 (March 2013), p. 6.

However, Claimant challenged the MRT's finding that he was not disabled. Claimant is entitled to have MRT's disability decision reviewed by the State Hearing Review Team (SHRT) and to a hearing to review SHRT's denial, if any. BAM 600 (February 2013), p. 22. A hearing to address Claimant's disability decision will be scheduled, and Claimant will be notified of the hearing by the Michigan Administrative Hearing System (MAHS).

AMP Issue

At the hearing, Claimant also alleged that he had applied for AMP benefits at a different local office but had not received any response from the Department. At the time Claimant filed his request for hearing on May 9, 2013, the standard of promptness for processing an AMP application filed in late April 2013, as alleged by Claimant, had not been yet expired. See BAM 115 (May 2013), p. 13. Furthermore, the Department reviewed its system and found that no AMP application had been registered for Claimant. Claimant was unable to present any evidence at the hearing showing that he had filed an AMP application, as alleged. Under these facts, Claimant lacks standing to challenge the Department's action or lack of action concerning the AMP issue. See Mich Admin Code R 400.903(1).

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 denied Claimant's FAP application. Accordingly, the Department's FAP decision is AFFIRMED.

Pursuant to Mich Admin Code R 400.903(1), Claimant's AMP issue is ordered DISMISSED.

With respect to the processing of Claimant's Request for Hearing concerning the denial of his application for MA, this matter will be scheduled and a Notice of Hearing will be sent by MAHS to all identified parties.



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

Date Signed: June 20, 2013

Date Mailed: June 20, 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

2013-48225/ACE

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

ACE/pf

cc:

