

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201263187
Issue No.: 2009, 2012
Case No.: [REDACTED]
Hearing Date: October 11, 2012
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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 October 11, 2012, from Saginaw, Michigan. Participants on behalf of Claimant included Claimant. Claimant was represented by [REDACTED] of [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], ES.

ISSUE

Is Claimant eligible for a caretaker relative MA case?

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 3/22/12, Claimant applied for MA.
2. Claimant applied for 1 month of retro MA.
3. On 4/12/12, the Department processed the case as an MA-P and received the case back from MRT with a denial.
4. On 4/17/12, the Department issued notice.
5. On 7/6/12, Claimant filed a hearing request.
6. On 8/14/12, SHRT denied Claimant.

7. On 10/11/12, an administrative hearing was held. At that time, evidence indicated that Claimant had his [REDACTED] [REDACTED] in his home at the time of application. The children were [REDACTED] and [REDACTED].
8. The Department failed to assess a caretaker relative eligibility and indicated that the [REDACTED] had no other MA case.
9. On 10/25/12, the undersigned Administrative Law Judge (ALJ) issued Interim Order Extending the Record indicating that the Department had 60 days to process a caretaker relative case on behalf of Claimant for his 3/22/12 application including 1 month of retro MA. The Department failed to respond to the Interim Order.
10. On 12/10/12, the undersigned ALJ issued a correspondence to the local office requesting the assessment of the caretaker relative status pursuant to the Interim Order Extending the Record of 10/25/12. The Department failed to respond.
11. On 7/12/13, MAHS once again issued correspondence to request the status of the caretaker relative assessment. The Department failed to respond.

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 AACS, 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.

Under general rules of evidence, the Department has the burden of proof to show what was done in a case, and the authority upon which it relied.

In this case, applicable policy and procedures found in BAM and PAM. In these sections, individuals who apply for medical assistance have the right to have the most beneficial category open on their behalf.

In this case, Claimant presented substantial and credible evidence that his [REDACTED] [REDACTED] were living with him at the time of application. Claimant subsequently submitted evidence of having [REDACTED] [REDACTED]. The Department checked the Bridges systems which indicated that Claimant's [REDACTED] [REDACTED] did not have an open case on behalf of the [REDACTED]. The Department was ordered to make a caretaker relative MA assessment by way of the 10/25/12 Interim Order; correspondence dated 12/10/12; and correspondence dated 7/10/13. In all three cases, the Department failed to respond.

Claimant's evidence was presumptive of caretaker relative MA and thus, this ALJ reverses the Department and finds eligibility.

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 not act properly when it failed to respond to a caretaker relative assessment.

Accordingly, the Department's AMP FIP FAP MA SDA CDC denial is AFFIRMED REVERSED for the reasons stated on the record.

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

1. Open a caretaker relative MA case from the month of application including 1 month, if eligibility otherwise exists. Issue any supplemental benefits to Claimant to which he may be entitled and keep the case open if permitted under policy and procedure.

/s/
Janice G. Spodarek
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/26/13

Date Mailed: 7/30/13

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.

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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

JGS/tb

cc:

