

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-55352
Issue Nos.: 2018, 3002, 4000, 6008
Case No.: [REDACTED]
Hearing Date: July 25, 2013
County: Wayne (82-35)

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 July 25, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

1. Did the Department properly close Claimant's Medical Assistance (MA) case?
2. Did the Department properly decrease Claimant's Food Assistance Program (FAP) benefits?
3. Did the Department properly process Claimant's June 24, 2013, MA and State Disability Assistance (SDA) 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. Claimant was an ongoing recipient of FAP and MA benefits.
2. On June 17, 2013, Claimant notified the Department that he was moving in with his mother and would no longer be residing with his wife and minor stepchild.

3. On June 17, 2013, the Department sent Claimant a Notice of Case Action notifying him that effective July 1, 2013, his MA case would close and his monthly FAP benefits would be reduced to \$200.
4. On June 24, 2013, Claimant filed an application for MA and State Disability Assistance (SDA) benefits.
5. On June 25, 2013, Claimant filed a request for hearing disputing the Department's actions concerning MA, SDA and FAP.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Bridges Program Glossary (BPG).

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 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 Mich Admin Code, R 400.3151 through R 400.3180.

Closure of MA Case

Although the Department did not include any relevant Notice of Case Actions in the hearing packet, at the hearing, the Department testified that, after Claimant notified the Department that he was living with his mother and no longer living with his wife and stepson, it sent Claimant a June 17, 2013, Notice of Case Action notifying him that effective July 1, 2013, his MA case would close. At the hearing, the Department established that, prior to closure, Claimant was receiving MA coverage under Group 2 Caretaker Relative (G2C) program, and contended that Claimant was not eligible for G2C coverage once he no longer resided in the same household as his minor stepson.

To be eligible for G2C coverage, a client must live with a dependent child. BEM 135, p. 1. A temporarily absent person is considered living in the home. BEM 135 (January 2011), p. 3. A person's absence is temporary if (i) his location is known, and (ii) there is a definite plan for his return, and (iii) he lived with the group before the absence; and (iv) the absence has lasted, or is expected to last, 30 days or less. BEM 135, p. 3. In this case, Claimant's testimony established that he was previously residing with his wife and stepson, the parties each know where the other is living, and there is a definite plan for them to reunite. However, Claimant's testimony did not establish that his absence would last 30 days or less. Thus, Claimant was not living with his minor stepson and his absence was not temporary as defined by policy. Thus, the Department acted in accordance with Department policy when it closed Claimant's MA case under the G2C program.

Before closing a client's MA case, however, the Department must conduct an *ex parte* review to determine the client's eligibility for coverage under other MA categories. BAM 210 (November 2012), p. 1. 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 2010), p. 1. To receive MA under an FIP-related category, the person must have dependent children who live with him, 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 2010), p. 1; BEM 135 (January 2011), p. 1. When an *ex parte* review of a client's current MA eligibility case shows the recipient indicated or demonstrated a disability, the Department continues MA coverage until the review of possible eligibility under other MA categories has been completed. BAM 115 (May 2013), p. 7.

In this case, the Department testified that it conducted an *ex parte* review but concluded that Claimant was not eligible under any other category. While the Department testified that it was not made aware of any alleged disability by Claimant prior to his June 24, 2013, MA application, the Department sent Claimant a Notice of Case Action closing his MA case on June 17, 2013, the same day Claimant notified the Department that he was not living with his wife and stepson, making a thorough *ex parte* review of Claimant's MA case unlikely. A review of the case notes from Claimant's worker show that on April 15, 2013, after the Department corrected an error in Claimant's case in processing his December 2012 MA application and activated his MA coverage, medical expenses input in the Department's system resulted in a FAP supplement. Medical expenses are taken into account for FAP budgets only for clients who are senior/disabled/disabled veteran (SDV) members of the FAP group. See BEM 554 (October 2012), p. 1. If Claimant's medical expenses resulted in a FAP supplement, it follows that the Department concluded that Claimant was either disabled or a senior (which, for FAP purposes, is age 60 or older) [see BPG, p 40]. Because there is evidence that the Department was aware that Claimant had previously alleged a disability, the Department did not act in accordance with Department policy when it failed to continue Claimant's MA coverage while assessing his eligibility for continued MA coverage based on disability.

Reduction in FAP Benefits

At the hearing, the Department testified that it sent Claimant a June 17, 2013, Notice of Case Action notifying him that, effective July 1, 2013, his monthly FAP benefits would be reduced to \$200. The Department explained that, because Claimant was no longer living with his wife and stepson, he was the sole member of his FAP group and was eligible for FAP benefits only for himself.

To be in the same FAP group, family members must live together. BEM 212 (November 2012), pp. 1-2. A person who is temporarily absent from the group is considered living with the group. BEM 212, p. 2. To establish a temporary absence, all of the following conditions must be true: the person's location is known, the person lived with the group before the absence, there is a definite plan for return, and the absence has lasted or is expected to last 30 days or less. BEM 212, p. 2. In this case, Claimant was previously residing with his wife and stepson, he knows where they live and there is a definite plan for them to reunite. However, Claimant's testimony did not establish that the wife and stepson's absence would last 30 days or less. Thus, the Department acted in accordance with Department policy when it removed Claimant's wife and stepson from his FAP group. The maximum monthly FAP allotment available to a FAP group with a single member is \$200. RFT 260 (December 2012), p. 1. Thus, the Department acted in accordance with Department policy when it reduced Claimant's monthly FAP benefits to \$200.

June 24, 2013 MA and SDA Applications

The Department testified at the hearing that Claimant's June 24, 2013, MA and SDA applications were still being processed as of the July 25, 2013, hearing date. The Department has 60 days to process an SDA application and 90 days for MA categories in which disability is an eligibility factor. BAM 115 (May 2013), p. 13. The standard of promptness can be extended 60 days from the date of deferral by the Medical Review Team (MRT). BAM 115, p. 13. Because the Department had not denied Claimant's application and had not exceeded the standard of promptness applicable to processing Claimant's application, Claimant was not an aggrieved party with respect to the June 24, 2013, application, and has no basis for a hearing. See BAM 600 (February 2013), p. 3.

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 (i) it has no authority to review Claimant's June 24, 2013, application for MA and SDA because the Department has not taken any action on those applications, (ii) the Department acted in accordance with Department policy when it reduced Claimant's FAP benefits, and (iii) the Department did not act in accordance with Department policy when it closed Claimant's MA case.

Accordingly, Claimant's request for a hearing concerning his June 24, 2013, MA and SDA application is ordered DISMISSED.

With respect to Claimant's hearing request concerning the closure of his MA case and the reduction of his FAP benefits, the Department's decision is AFFIRMED IN PART with respect to the reduction in Claimant's FAP benefits and REVERSED IN PART with respect to closure of Claimant's MA case.

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

1. Reinstate Claimant's MA case as of July 1, 2013;
2. Continue processing Claimant's MA eligibility on the basis of disability in accordance with Department policy and consistent with this Hearing Decision;
3. Provide Claimant with MA coverage he is eligible to receive, if any, from July 1, 2013, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: July 29, 2013

Date Mailed: July 30, 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
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

