

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-38406
Issue No.: 2021
Case No.: [REDACTED]
Hearing Date: August 7, 2013
County: Menominee

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's Authorized Representative's (AR) request for a hearing. After due notice, a telephone hearing was held on August 7, 2013, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's AR, [REDACTED]. Participants on behalf of Department of Human Services (Department) included Family Independence Manager, [REDACTED] and Assistance Payments Worker, [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. Claimant applied for benefits received benefits 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). |

2. On January 4, 2012, the Department

- denied Claimant's application closed Claimant's case due to excess assets.

3. On January 4, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On March 22, 2013, Claimant's AR 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 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 1999 AC, R 400.3101 through Rule 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 1999 AC, R 400.3001 through Rule 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 Rule 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 1999 AC, R 400.5001 through Rule 400.5015.

The record contains a letter from the Michigan Administrative Hearing System (MAHS) Executive Director, [REDACTED]. It indicates that the hearing request may not be timely and directs the presiding Administrative Law Judge to consider the timeliness of the hearing as the first, threshold issue before considering the merits of the case. Indeed, during the hearing, the only issue discussed was whether or not the hearing was timely. The Claimant's AR argued that the DHS-1605, Notice of Case action lists the first reason for denial of the MA application as being that the Claimant is not blind, disabled, pregnant, parent/caretaker relative of a dependent child or meet age requirements. As such, the Claimant's AR argued that the Claimant was denied MA benefits as not being disabled. On October 21, 2012, the Social Security Administration determined that the Claimant was disabled. The Claimant's AR argued, based on Bridges Eligibility Manual (BEM) 260 (2011), the Department is required to reprocess the Claimant's application for MA benefits.

BEM 260, p. 1, instructs Department workers to process a previously denied application as if it is a pending application if the reason for denial was that the MRT determined the client was not disabled or blind, and the Social Security Administration (SSA) subsequently determined that the client is entitled to RSDI based on his disability/blindness for some or all of the time covered by the denied MA application. However, the Department contended that, regardless of the reference of a lack of disability contained in the notice, the Claimant was actually denied because of excess assets. The Department testified that the MRT never did make a disability determination and as the Claimant's AR never did appeal the decision that the Claimant had excess assets, the hearing request is untimely. The Claimant's AR argued that the notice was defective and the Administrative Law Judge did hold the record open until August 8, 2013 for case law that the AR asserted would require reversal of the Department's decision. The case law submitted was not persuasive to this Administrative Law Judge.

The Claimant's AR has been the AR since October 10, 2011. Based on the record, it does not appear that the Claimant's AR was ever sent a DHS-1605, Notice of Case Action informing the AR that the Claimant's application was denied. Bridges Administrative Manual (BAM) 110 (2011) pp. 7, 8, provides that an authorized representative (AR) is a person who applies for assistance on behalf of the Claimant and/or otherwise acts on his behalf. If an AR is going to act on the Claimant's behalf, the AR needs to be informed of any negative action regarding the Claimant's MA case to continue to act on the Claimant's behalf. As it appears that the Claimant's AR was not timely informed of the application denial in this case, the Administrative Law Judge therefore determines that the Department was not acting in accordance with departmental policy when taking action to deny the Claimant's application for MA without notifying the Claimant's AR.

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.

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

1. Initiate action to re-determine the Claimant's eligibility for MA back to the original application date of December 27, 2011, and
2. If the Claimant is again found to be ineligible for MA, promptly notify the Claimant's AR of the denial and the reason for the denial, and if not,
3. Initiate action to issue the Claimant any supplement thereafter due.

/s/

Susanne E. Harris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 8/15/13

Date Mailed: 8/16/13

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.

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

SEH/tb

cc:

