IN THE MATTER OF:

Reg. No.:	2013-47603
Issue No.:	████████
Case No.:	████████
Hearing Date:	July 31, 2013
County:	Wayne (43)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 31, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, Claimant's daughter, ████████████. Participants on behalf of the Department of Human Services (Department) included ████████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) benefits effective June 1, 2013, ongoing?

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 MA benefits. See Exhibit 1.

2.   Claimant is an ongoing recipient of Food Assistance Program (FAP) benefits. See Exhibit 1.

3.   On April 30, 2013, the Department sent Claimant a Notice of Case Action advising Claimant that her MA benefits would close effective June 1, 2013, ongoing, due to her not being eligible for MA coverage. Exhibit 1.

4.   On May 10, 2013, Claimant filed a hearing request, protesting her FAP and MA benefits. Exhibit 1.

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 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.

As a preliminary matter, Claimant request for hearing is also disputing her FAP benefits. See Exhibit 1. However, during the hearing, Claimant testified that she is not disputing her FAP benefits. Thus, pursuant to Mich Admin Rule, Claimant's FAP hearing request is hereby DISMISSED.

In this case, Claimant was an ongoing recipient of Group 2 Caretaker Relatives (G2C) MA coverage. See Exhibit 1. On April 30, 2013, the Department sent Claimant a Notice of Case Action advising Claimant that her MA benefits would close effective June 1, 2013, ongoing, due to her not being eligible. Exhibit 1. The Department testified that it believes that it conducted an ex parte review to determine if Claimant is eligible for other MA coverage.

MA is available to parents and other caretaker relatives who meet the eligibility factors in BEM 135. BEM 135 (January 2011), p. 1. All eligibility factors must be met in the calendar month being tested. BEM 135, p. 1. If the month being tested is an L/H month and eligibility exists, the Department uses BEM 546 to determine the post-eligibility patient-pay amount. BEM 135, p. 1.

A child is a dependent child when he meets all of the following conditions:

- The child is born.
- The child meets the **FIP** eligibility factors in the following items:
    - o BEM 223, Social Security Numbers.
    - o BEM 225, Citizenship/Alien Status.
    - o BEM 227, Strikers.
    - o BEM 270, Pursuit of Benefits.

- The child is a resident using **MA** policy in BEM 220.
- The child meets the following age or age and school attendance requirement:

  o He must be under age 18; **or**
  o He must be age 18 and a full-time student in a high school or in the equivalent level of vocational or technical training as defined in FIP policy in BEM 245. He must be expected to complete his educational or training program before age 19.

- The child is:
  o A FIP recipient.
  o A SSI recipient.
  o A MA applicant.
  o Active MA deductible.
  o A MA recipient.
  o A MIChild recipient.

  BEM 135, pp. 2-3.

At the hearing, the Department testified that Claimant has two children living with her. The oldest child is 19-years old, and her other child turned 18 in June 2013, but receives SSI-related Medicaid and income. The Department testified that both are not attending high school-full time. Moreover, Claimant testified that she is 48 years-old, she is not disabled, and does not earn any income.

It should be noted that contrary to the Department's testimony, the Education – Details exhibit indicates that Claimant is enrolled in high school for full-time status and is expected to graduate on June 1, 2013. Exhibit 1.

Based on the foregoing information and evidence, Claimant is only eligible for G2C MA coverage for June 2013. MA is available to parents when all eligibility factors are be met in the calendar month being tested. BEM 135, p. 1. Claimant's child was under the age of 18 and attending high-school full-time for the month of June 2013. See BEM 135, p. 2 and see Exhibits 1. Claimant is therefore entitled to G2C MA coverage for June 2013. However, based upon the testimony and evidence presented, Claimant is not eligible for MA coverage ongoing.

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 improperly closed Claimant's MA benefits for June 2013.

Accordingly, the Department's ☐ AMP ☐ FIP ☐ FAP ☒ MA ☐ SDA ☐ CDC decision 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. Initiate reinstatement Claimant's MA case for June 2013;

2. Begin recalculating the MA budget for June 2013 in accordance with Department policy;

3. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive but did not for June 2013; and

4. Begin notifying Claimant of its MA decision in accordance with Department policy.

Based on the above discussion, it is ALSO ORDERED that Claimant's FAP hearing request is **DISMISSED**.

/s/_____
Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 08/26/2013

Date Mailed: 08/26/2013

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.

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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

EF/sw

cc: