

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

**IN THE MATTER OF:**

████████████████████  
██  
████████████████████

Reg. No.: 2013-59487  
Issue Nos.: 2000;3025  
Case No.: ██████████  
Hearing Date: August 21, 2013  
County: Wayne (55)

**ADMINISTRATIVE LAW JUDGE:** Zainab Baydoun

**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 August 21, 2013, from Detroit, Michigan. Claimant and ██████████ who served as interpreter, appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████, Family Independence Specialist.

**ISSUE**

Did the Department act in accordance with Department policy when it processed Claimant's benefits for: Medical Assistance (MA) and Food Assistance Program (FAP)?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of MA.
2. There was no negative action taken by the Department with respect to Claimant's MA benefits during the 90 days preceding the filing of his hearing request.
3. On June 28, 2013, Claimant submitted an application for FAP benefits.
4. On July 9, 2013, the Department sent Claimant a Notice of Case Action informing him that his application for FAP had been denied on the basis that he did not meet the citizenship requirement. (Exhibit 3).

5. On July 18, 2013, Claimant filed a request for hearing disputing the Department's actions.

### **CONCLUSIONS OF LAW**

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and State Emergency Relief Manual (ERM).

#### **MA**

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.

Additionally, Claimant filed a request for hearing to dispute actions taken by the Department with respect to his MA case. At the hearing, the Department testified and Claimant confirmed that he had active and ongoing MA benefits and that there had been no lapse in his MA benefits. The Department presented a Medicaid Eligibility summary in support of its testimony which establishes that Claimant was approved for MA from April 2013 through August 2013. (Exhibit 1).

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Bridges Administrative Manual (BAM) 600 (July 2013), p. 4, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

There was no negative action taken by the Department with respect to Claimant's MA benefits during the 90 days preceding the filing of his hearing request; therefore, his hearing request with regards to MA was not timely filed within ninety days of the negative action and is, therefore, DISMISSED for lack of jurisdiction. BAM 600, p 4.

#### **FAP**

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.

In the present case, Claimant requested a hearing to dispute the Department's denial of his FAP application on the basis that he is not an eligible alien.

To receive FAP benefits, a person must be a U.S. citizen or have an acceptable alien status. Individuals who do not meet this requirement are disqualified from FAP eligibility. BEM 225 (July 2013), p 1. Acceptable alien status includes individuals who are permanent resident aliens and either have been in the U.S. for five years or meet the Social Security Credits (SSC) requirements. BEM 225, pp 3-4, 8. Permanent resident aliens who have not been in the U.S. for five years are eligible for FAP benefits if their permanent residency cards (I-551) have a class code of RE, AS, SI, AM or SQ. BEM 225, pp 5-6. FAP benefits are also available to persons lawfully residing in the U.S. and currently disabled. BEM 225, p 8. An individual is disabled if he or she receives Supplemental Security Income (SSI), Retirement, Survivors and Disability Insurance (RSDI), or railroad retirement benefits, or MA based on disability or blindness. BEM 225, p 8.

At the hearing, Claimant confirmed that he is not a U.S. citizen and that he entered the U.S. on [REDACTED]. Therefore, he has been in the U.S. less than five years. The Department testified that in processing the application, it reviewed Claimant's permanent residency card and that it did not show a class code of RE, AS, SI, AM or SQ. Claimant did not allege that he was disabled, and there was no evidence that at the time of his FAP application, he was a recipient of SSI, RSDI, railroad retirement benefits or MA based on disability or blindness. Under the foregoing facts, Claimant did not have acceptable alien status. Thus, the Department acted in accordance with Department policy when it denied Claimant's FAP application.

### **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 Claimant's hearing request with regards to MA is DISMISSED for lack of jurisdiction.

The Administrative Law Judge further finds that the Department acted in accordance with Department policy when it denied Claimant's FAP application. Accordingly, the Department's decision is AFFIRMED.



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Zainab Baydoun  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: August 30, 2013

Date Mailed: August 30, 2013

**NOTICE OF APPEAL:** 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

ZB/cl

cc:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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