

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

IN THE MATTER OF:

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Reg. No.: 2013-67696
Issue No.: 1021;2018;6043
Case No.: ██████████
Hearing Date: October 30, 2013
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 30, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her husband, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ Family Independence Manager and ██████████, Family Independence Specialist.

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP), Medical Assistance (MA) and Child Development and Care (CDC) applications?

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 July 1, 2013, Claimant submitted an online application for FIP, MA and CDC benefits on behalf of her granddaughter for whom she is the guardian.
2. On July 15, 2013, the Department sent Claimant an Application Notice informing her that her application was denied on the basis that she did not provide the Department with information needed to determine eligibility. (Exhibit 1, p. 6).
3. On August 28, 2013, Claimant submitted a hearing request disputing the denial.

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 Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858g; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Additionally, the Department testified that Claimant's application was denied on the basis that because the child's mother was residing in the household with Claimant at the time, she must be the applicant for assistance benefits on behalf of the child. Claimant disputed this testimony and stated that she is the child's legal guardian and provided verification of this at the hearing.

According to BAM 110, any person, regardless of age, or his/her authorized representative may apply for assistance. BAM 110 (July 2013), p. 4. Additionally, a grandparent is considered a specified relative for MA purposes under the Group 2 Caretaker MA program, making it unnecessary for a parent to submit an application on behalf of a child. BEM 135 (July 2013), pp.1-7. After further review, there appears to be no other policy indicating that a parent must submit an application on behalf of a child, especially given the fact that in this case, Claimant was the child's legal guardian. Therefore, the Department's testimony that the child's parent must submit an application for assistance on behalf of the child and that an application cannot be submitted by a grandparent who also serves as the child's legal guardian is not supported by Department policy.

At the hearing, Claimant credibly testified that on June 28, 2013, she submitted documentation verifying that her daughter was not living with Claimant in her home and that although Claimant's daughter may have previously used Claimant's address for mailing purposes, the daughter was not living at the home when the application was submitted. Claimant stated that she informed the Department on multiple occasions that her daughter was not in the home. Claimant submitted letters from neighbors in support of her testimony that Claimant's daughter does not live in the home, as well as proof that Claimant's daughter had her address changed prior to the application date. (Exhibit 1, pp.9-23).

According to BAM 130, before determining eligibility for all programs, the Department is to give clients a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130 (July 2013), p. 6. Further, the Department will request verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, pp. 2-3. Clients are given 10 calendar days (unless otherwise specified by policy) to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, p.5.

In this case, Claimant did not indicate that her daughter was a group member on the application but the Department stated that based on address information that was previously on file for the child's mother, it believed that Claimant's daughter was living in the home and because Claimant did not provide the Department with verification that her daughter was no longer living in the home, the application was denied.

The Department confirmed that a VCL was not sent to Claimant requesting that she verify the information regarding her daughter's address. Therefore, if the Department did believe that Claimant's daughter was living in the home at the time the application was submitted, the Department should have allowed Claimant the opportunity to resolve the discrepancy between the information Claimant provided on the application and the information that the Department had on file by sending out a VCL to have the information on the application verified.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's FIP, CDC and MA applications based on a failure to provide the Department with information needed, as the Department did not provide Claimant with a VCL informing her what information was needed and did not allow her an opportunity to resolve the discrepancy in the available information as required by Department policy.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Register and reprocess Claimant's July 1, 2013 FIP, CDC and MA application for assistance on behalf of her grandchild;
2. Issue supplements to Claimant and her grandchild for any FIP, CDC and MA benefits that they were entitled to receive but did not from the date of application ongoing; and
3. Notify Claimant in writing of the Department's decision.



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

Date Signed: November 12, 2013

Date Mailed: November 13, 2013

NOTICE OF APPEAL: 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.

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).

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.

2013-67696/ZB

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/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]