

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

**IN THE MATTER OF:**

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

Reg. No.: 20144468  
Issue No.: 2005; 3025  
Case No.: ██████████  
Hearing Date: November 13, 2013  
County: Wayne (55)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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 November 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; ██████████ Claimant's husband; ██████████ Claimant's father; and ██████████, community worker and translator. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Worker.

**ISSUE**

Did the Department properly deny Claimant's September 19, 2013, application for Food Assistance Program (FAP) and Medical Assistance (MA) benefits?

**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 September 19, 2013, Claimant applied for MA and FAP for herself and her husband.
2. On September 20, 2013, the Department sent Claimant a Notice of Case Action denying the application.
3. On September 30, 2013, Claimant filed a request for hearing disputing the Department's action.

## **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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

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.

Additionally, Claimant requested a hearing concerning the Department's denial of her September 19, 2013, FAP and MA application.

### **Denial of FAP Application**

The Department denied Claimant's FAP application because neither she nor her husband were eligible aliens. To receive FAP benefits, a person must be a U.S. citizen or have an acceptable alien status, and 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 meet one of the following criteria: (i) have been in the U.S. for five years; (ii) meet the Social Security Credits (SSC) requirements; (iii) have permanent residency cards (I-551) with a class code of RE, AS, SI, AM or SQ; (iv) are under 18 years of age; or (v) are lawfully residing in the United States and disabled. BEM 225, pp. 3, 5-6, 8, 9.

In this case, Claimant's permanent residency cards showed an October 5, 2010, date of entry into the United States from [REDACTED]. Claimant and her husband confirmed that they entered the United States from B [REDACTED] in October 2010. Therefore, neither of them had resided in the United States for at least five years. The Department produced Claimant's permanency residency cards, which did not show any qualifying class code of RE, AS, SI, AM or SQ, and Claimant's husband confirmed that they did not come into the United States as refugees, under asylum, or under any other special or unusual circumstances. Although Claimant's husband had worked for nearly three years, he would not have acquired sufficient SSCs necessary for FAP eligibility. See BEM 225, pp. 12-13. Finally, Claimant did not identify herself or her husband as disabled in the September 19, 2013, application. Under these facts, Claimant and her husband failed to establish any eligibility for FAP benefits based on their alien status.

Thus, the Department acted in accordance with Department policy when it denied Claimant's FAP application.

**Denial of MA Application**

The September 19, 2013, Notice of Case Action informed Claimant that her MA application was denied because neither she nor her husband met the age requirements or were blind, disabled, pregnant, the parent/caretaker relative of a dependent child and because the Adult Medical Program (AMP) was closed to new enrollments.

MA coverage for a client who has been a United States resident for less than five years is limited to Emergency Services Only (ESO) if she meets all other MA eligibility requirements under a FIP-related MA category or an SSI-related MA category. BEM 225, pp. 2, 8, 17, 25. 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 a FIP-related category, the person must have dependent children, be a caretaker relative of dependent children, be under age 21, or be a pregnant or recently pregnant woman. BEM 105, p. 1.

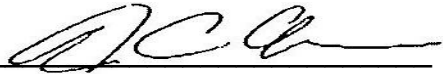
In this case, Claimant did not identify herself or her husband as disabled in her September 19, 2013, application. Claimant's husband confirmed that Claimant was ■ years old and he was ■ years old, that they did not have minor children, and that Claimant was not pregnant. Based on the information in the application and the evidence at the hearing, Claimant and her husband were not eligible for MA under any of the eligibility categories. Therefore, the Department acted in accordance with Department policy when it denied Claimant's MA application.

AMP provides limited medical services for persons not eligible for MA coverage. BEM 100 (January 2013), p. 4. The AMP program was closed to new enrollees in September 2013, the month of Claimant's application. Therefore, the Department acted in accordance with Department policy when it denied Claimant's September 19, 2013 application for AMP coverage. See BEM 640 (October 2012), p. 1.

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 acted in accordance with Department policy when it denied Claimant's MA and FAP application.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

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

Date Signed: November 15, 2013

Date Mailed: November 15, 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.

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

ACE/tm

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