

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, as a preliminary matter, it is noted that, in his October 10, 2013, hearing request, Claimant sought a hearing concerning his MA and FAP application. Claimant's hearing request is tied to the October 4, 2013, Notice of Case Action that denied his children MA coverage under the OHK program. The Department testified that Claimant's FAP application was denied on October 17, 2013, after Claimant filed his October 10, 2013, hearing request. Because the Department had not taken any action concerning Claimant's FAP application at the time Claimant filed his October 10, 2013, hearing request, Claimant was not an aggrieved party concerning the FAP benefits at the time he filed his hearing request. Mich Admin Code, R 903(1). Accordingly, Claimant's hearing request concerning FAP benefits is dismissed. Claimant was advised at the hearing that he could file a hearing request concerning the FAP denial in accordance with Department policy.

The October 4, 2013, Notice of Case Action approved Claimant's two minor children's MA coverage under the OHK program for September 2013 and denied coverage for October 1, 2013, ongoing. OHK is a FIP-related Group 1 MA category available to a person under age 19 where net income does not exceed 150% of the poverty level. BEM 131 (July 2013). The Department explained that the children were denied MA coverage under the OHK program because Claimant's prior employment income continued to be budgeted in its system with the result that Claimant's income exceeded the income limit under the OHK program. However, Department policy provides that presumptive eligibility is determined based on income reported **at the time of application** and continues until regular eligibility becomes effective based on a determination by local Department staff or if required verifications are not received. BEM 131 (July 2013), p. 1.

In this case, the Department testified that Claimant reported in his September 30, 2013, application that he had been recently laid off and had no income. Therefore, the Department did not act in accordance with Department policy when it failed to consider the income information in the application in making a determination of Claimant's son's presumptive eligibility for OHK coverage.

The October 4, 2013, Notice of Case Action states that the reason that continuing coverage was denied for the children was because neither child was under 21, pregnant, the caretaker of a minor child in the home, over 65, blind, or disabled. Coverage under OHK is available for children under age 19. The evidence at the hearing established that both children were under age 19. Therefore, the Department did not act in accordance with Department policy when it denied Claimant's children MA coverage under the OHK program on the basis of age.

At the hearing, the Department also contended that, at the time the children were denied MA coverage under the OHK program, MA coverage for Claimant and the children continued to pend under the Low-Income Family (LIF) program. The Department must consider a client's eligibility for MA under LIF before determining eligibility for other categories. BEM 110 (July 2013), p. 2. However, Department policy does not provide for the denial of coverage under other MA categories if eligibility under LIF is not available. To the contrary, clients are entitled to MA coverage under the most beneficial category, which is the category that results in eligibility or the least amount of excess income. BEM 105 (July 2013), p. 2. In this case, the Department did not act in accordance with Department policy to the extent it denied the children OHK coverage while coverage under LIF was pending and had not been approved.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's children MA coverage under the OHK program.

DECISION AND ORDER

Because the Department had not issued a FAP decision prior to Claimant's October 10, 2013, hearing request, the request for hearing concerning the FAP application is DISMISSED.

The Department's MA 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. Reprocess Claimant's children's eligibility for MA coverage under the OHK program as of September 30, 2013;

2. Provide the children with MA coverage under the OHK program from the date of eligibility, if eligible; and
3. Notify Claimant in writing of its decision.


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

Date Signed: November 26, 2013

Date Mailed: November 26, 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/pf

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