

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201331239  
Issue No.: 2005; 3025  
Case No.: [REDACTED]  
Hearing Date: March 27, 2013  
County: Oakland (02)

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

**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 March 27, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's wife. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department properly close Claimant's Food Assistance Program (FAP) case and convert his Medical Assistance (MA) coverage to Emergency Services Only (ESO)?

**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  applied for benefits  received benefits for:

<input type="checkbox"/> Family Independence Program (FIP).	<input type="checkbox"/> Adult Medical Assistance (AMP).
<input checked="" type="checkbox"/> Food Assistance Program (FAP).	<input type="checkbox"/> State Disability Assistance (SDA).
<input checked="" type="checkbox"/> Medical Assistance (MA).	<input type="checkbox"/> Child Development and Care (CDC).
<input type="checkbox"/> Direct Support Services (DSS).	
  
2. On March 1, 2013, the Department closed Claimant's FAP case and converted his MA coverage from full-MA to ESO coverage.
  
3. On February 11, 2013, the Department sent Claimant notice of its intended actions.

4. On February 19, 2013, Claimant filed a hearing request, protesting the Department's actions.

### **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), and Department of Human Services 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.

#### **Closure of FAP Case**

In connection with a redetermination, the Department concluded that Claimant was improperly receiving FAP benefits. In a Notice of Case Action dated February 11, 2013, the Department notified Claimant that effective February 1, 2013, his FAP case would close because he and his wife were not citizens or 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 (January 1, 2012), 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, 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), railroad retirement benefits, or MA based on disability or blindness. BEM 225, p 8.

In this case, Claimant testified that he was disabled and established from a Hearing Decision issued in connection with an August 15, 2011, hearing that he was found to be disabled by the Department (Exhibit B). However, Claimant testified that he did not receive SSI and had not applied for benefits from the federal government. Furthermore,

while Claimant had received MA coverage based on disability, the February 11, 2013 Notice of Case Action shows that, as of March 1, 2013, Claimant received ESO coverage. Because Claimant did not receive MA based on a disability as of March 1, 2013, and as discussed below is not eligible for such coverage, Claimant was not eligible for FAP benefits based on his alleged disability.

At the hearing, Claimant and his wife both acknowledged that they been U.S. residents since March 2009, less than five years. Because they testified that they had not been employed in the U.S., they had not earned any SSCs. See BEM 225, p 12. Their permanent residency cards do not show a class code of RE, AS, SI, AM or SQ. Under the foregoing facts, Claimant and his wife did not have acceptable alien status. Thus, the Department acted in accordance with Department policy when it closed Claimant's FAP case.

#### ESO MA Coverage

At the hearing, Claimant clarified that the request for hearing concerning the MA issue concerned his coverage, not his wife's. Claimant had been receiving full-MA coverage based on his disability. In the February 11, 2013 Notice of Case Action, the Department notified Claimant that effective March 1, 2013, he would receive Emergency Service Only (ESO) MA coverage. While the Department testified at the hearing that Claimant's MA coverage had been converted back to full-MA coverage because of Claimant's verified disability, the Department failed to present any evidence showing this change in coverage, and Claimant was not aware of any such change. Therefore, Claimant's eligibility for full-MA coverage is considered in this Hearing Decision.

To be eligible for full MA coverage, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225, p 2; BEM 166 (October 1, 2010), p 1; BEM 163 (October 1, 2010), p 1. An individual with an immigration status of permanent resident alien with a class code on the I-551 (the Alien Registration Card) other than RE, AM or AS is limited to ESO MA coverage for the first five years in the U.S., unless the individual is a qualified military alien or the spouse or dependent child of a qualified military alien. BEM 225, pp 2, 6, 26.

In this case, Claimant acknowledged that he had not been in the U.S. for five or more years. Moreover, his Permanent Resident Card did not indicate that he had a class code of RE, AM or AS. Thus, the Department acted in accordance with Department policy when it provided MA coverage to Claimant under the ESO program.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly closed Claimant's FAP case and provided him with ESO MA coverage.

#### **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

did act properly.       did not act properly.

Accordingly, the Department's  AMP  FIP  FAP  MA  SDA  CDC  DSS decision is  AFFIRMED  REVERSED for the reasons stated above and on the record.



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

Date Signed: 4/4/2013

Date Mailed: 4/4/2013

**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 effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

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

ACE/hw

cc:

