

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201337725
Issue No: 1022, 2015, 3016
Case No: [REDACTED]
Hearing Date: May 1, 2013
DHS SSPC WEST

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on March 22, 2013. After due notice, a telephone hearing was held on May 1, 2013. Claimant appeared by three-way conference call and provided testimony. The department was represented by [REDACTED], an assistance payments worker with the department's SSPC West office.

ISSUE

Whether the Department of Human Services (department) properly determined Claimant's eligibility for Medical Assistance (MA) benefits, Family Independence Program (FIP) benefits, and Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On February 27, 2013, Claimant applied for FAP, MA, and FIP benefits. In her application, Claimant indicated, among other things, that she is unemployed, she is a full-time college student, and she is not blind, pregnant, aged, or the parent/caretaker relative of a dependent child. (Department Exhibit 2)
2. On March 19, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), advising Claimant that the department was unable to determine her eligibility for the Adult Medical Program because the program is closed to new enrollments at this time. The department further informed Claimant that she does not qualify for any other type of Medicaid because she is not blind, disabled, pregnant, aged, or the parent/caretaker relative of a dependent child. The department further informed Claimant that she was not eligible for

FIP benefits because she was not pregnant, or aged (65 or older), or disabled, or a refugee, or a dependent child who lives with a legal parent, stepparent or other qualifying caretaker, or a caretaker/relative of a child. The department further informed Claimant that she was not eligible for FAP benefits because is not an eligible student. (Department Exhibit 3)

3. On March 22, 2013, Claimant submitted a hearing request, contesting the department's denial of her application for FAP, MA, and FIP benefits. (Request for Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Food Assistance Program (FAP) was established pursuant to the Food Stamp Act of 1977, as amended, and is implemented by Title 7 of the Code of Federal Regulations (CFR). The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of CFR.

The Department of Human Services (DHS or department) administers these three programs pursuant to MCL 400.10, *et seq.*, and pursuant to MAC R 400.30001-3015, MAC R 400.3101-3131, and MCL 400.105, respectively. Department policies for these programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

To be eligible for FIP benefits, an individual must be pregnant, or aged (65 or older), or disabled, or a refugee, or a dependent child who lives with a legal parent, stepparent or other qualifying caretaker, or a caretaker/relative of a child. BEM 210.

To receive Medicaid under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive Medicaid under FIP-related categories.

With respect to the FAP program, effective April 1, 2011, clients in student status are no longer eligible to receive FAP benefits based solely on an approved education plan. BEM 245. A person is in student status if the person is 18 through 49 years old and enrolled half-time or more in: (i) a vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or (ii) a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245.

In order for an individual in student status to be eligible for FAP benefits, the individual must meet one of the following criteria:

- Receiving Family Independence Program benefits.
- Enrolled in an institution of higher education as a result of participation in:
 - Approved employment -related activities.
 - A JTPA program.
 - A program under Section 236 of the Trade Readjustment Act of 1974.
 - Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year. To qualify under this student status eligibility provision, the student must be approved for work study during the school term and anticipate actually working during that time, unless exempted because the student:
 - Starts the month the school term begins or the month work study is approved, whichever is later.
 - Continues until the end of the month in which the school term ends, or when you become aware that the student has refused a work-study assignment.
 - Remains between terms or semesters when the break is less than a full month, or the student is still participating in work study during the break.
- Providing more than half of the physical care of a group member under the age of six.

- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
 - Enable the person to attend class and work at least 20 hours per week.
 - Participate in a state or federally-financed work study program during the regular school year.

- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does **not** live with his or her natural, adoptive or stepparent. BEM 245.

For the care of a child under age six, the department shall consider the student to be providing physical care as long as he or she claims primary responsibility for such care, even though another adult may be in the FAP group. Moreover, when determining the availability of adequate child care for a child between the ages of six and 11, another person in the home, over 18 years of age, need not be a FAP group member to provide care. BEM 245.

A person remains in student status while attending classes regularly. Student status continues during official school vacations and periods of extended illness. Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term). BEM 245.

In this case, the department processed Claimant's February 27, 2013 application for FAP, MA, and FIP benefits and based on the information provided therein by Claimant, the department determined that Claimant was not eligible for Medicaid benefits because she stated she is able to work and did not otherwise meet the qualifying criteria (she is not aged, blind, or disabled). The department further determined that Claimant was not eligible for FIP benefits because she was not pregnant, or aged (65 or older), or disabled, or a refugee, or a dependent child who lives with a legal parent, stepparent or other qualifying caretaker, or a caretaker/relative of a child. The department further determined that Claimant was not eligible for FAP benefits because she had reported that she was enrolled full-time at a community college and was not working.

At the May 1, 2013 hearing, the department's representative testified that, in addition to the aforementioned reasons, Claimant also would not have qualified for the programs at issue because, as a permanent resident living in this country since May 11, 2008, Claimant would not have met the five-year residency requirement in department policy, BEM 225.

At the May 1, 2013 hearing, Claimant acknowledged that she understood she did not meet the eligibility criteria for the FAP, MA, and FIP programs at the time of her application.

Consequently, the Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the hearing, the department acted in accordance with policy in denying Claimant's February 27, 2013 application for FAP, MA, and FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in denying Claimant's February 27, 2013 application for FAP, MA, and FIP benefits. Accordingly, the department's actions are **UPHELD**.

It is **SO ORDERED**.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 2, 2013

Date Mailed: May 2, 2013

NOTICE: Michigan Administrative Hearings 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 Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

