


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

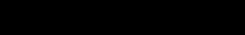
IN THE MATTER OF:



Reg. No.: 2013-6857
Issue No.: 2015/3014
Case No.: 
Hearing Date: January 10, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 January 10, 2013, from Detroit, Michigan. Participant s on behalf of Claimant included the claimant. Participants on behalf of the Department of Human Services (Department) included .

ISSUE

Did the Department properly deny Claimant's application close Claimant's case 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)? |

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). |

2. On November 1, 2012, the Department
 denied Claimant's application closed Claimant's case
due to the Department claims that the claimant testified that she had her children
only 10 days a month.
3. On October 3, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On October 18, 2012, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 1999 AC, Rule 400.3001 through Rule 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.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACR, Rule 400.3151 through Rule 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

The Department claims that the claimant told them that she had her children with her about 10 days a month. It cites this as the reason that it removed the claimant's children from her benefit group.

The Department also acknowledges that the claimant told them she left her previous residence, and her children, due to domestic violence. This issue was never addressed by the Department.

If there is a disclosure of domestic violence, and the client is not receiving services, the FIS is required to refer the family to the appropriate community services. Determine if domestic violence presents a barrier to cooperation with agency requirements, such as pursuit of child support (BEM 255), participation in employment and training activities (BEM 230A), and third party liability (BEM 257). (BEM 200, p. 2; September 26, 2012).

Also:

Applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS). If their gross income is at or below 200% of the poverty level and they meet the asset test, they are also categorically eligible. (BEM 213 p. 1; September 26, 2012).

The claimant disagrees that she told the Department that her children were with her only 10 days a month. The Department provided no evidence that the claimant's children were with her only 10 days a month other than reciting that the claimant told that to the Department.

Here, the Department took no remedial action as demanded in the above policy but removed the claimant's children from her FAP and MA groups, closing both on November 1, 2012.

When questioned at the hearing it appeared that the claimant's absence from her children was temporary.

Temporary Absence

A person who is temporarily absent from the group is considered living with the group.

A person's absence is temporary if all of the following are true:

His location is known.

He lived with the group before his absence (newborns are considered to have lived with the group).

There is a definite plan for his return.

The absence has lasted or is expected to last 30 days or less.

(BEM 212, p. 2; November 1, 2012).

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 denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC.


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 decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate the reregistration of the claimant's September 26, 2012 MA and FAP application and reprocess same following the above dictates concerning domestic violence and replace any missed benefits.


Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 11, 2013

Date Mailed: March 11, 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

MJB/cl

cc:

