

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-8421
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: January 9, 2013
County: Macomb (50-20)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, an in-person hearing was held on January 9, 2013, from Warren, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

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 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 type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

[Insert.]/[Insert.]

2. On October 19, 2012, the Department
 denied Claimant's application closed Claimant's case
due to not meeting eligibility requirements to receive FAP benefits.
3. On October 19, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On October 29, 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 AACS, Rule 400.3151 through Rule 400.3180.

[Insert.]/[Insert.]

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.

In the instant case, on October 19, 2012, the Department initiated a case closure action after an Office of Inspector General (OIG) investigation indicated Claimant was no longer in the State of Michigan. On October 29, 2012, Claimant filed a hearing request regarding the notice of case action indicating his FAP benefits would be terminated.

At hearing, Claimant first raised the concern regarding the failure on the part of the Department to reinstate benefits upon the filing of a timely hearing request. The policy regarding FAP benefits does allow that, if requested, FAP benefits may continue pending a hearing resolution. Claimant had filed the request in time for this to be allowed. The Department failed to remove the negative action and reinstate the benefits.

The remaining issue is whether or not Claimant was eligible to continue to receive FAP benefits. Claimant's representative asserted she and Claimant first left Michigan for a vacation not expecting to be gone long. Claimant's representative, however, was unable to complete the trip and Claimant subsequently left the state with a friend for a vacation. According to testimony, Claimant arrived in [REDACTED] some time during the third week of March 2012. Claimant's representative indicated Claimant became ill and went to the emergency room for treatment on [REDACTED]. Following his release, Claimant's transportation was involved in some sort of accident requiring repair which, again, extended the trip. Claimant then developed an abscess on his arm and received treatment. Claimant returned to Michigan shortly before October 19, 2012.

Claimant asserts, if not for illness and transportation issues, he would have, in fact, returned to Michigan from his vacation sooner. However, this Administrative Law Judge finds this assertion fails to overcome the requirement that in order to be considered an eligible FAP group member, the absence from the state cannot last more than 30 days. Here, Claimant was absent from the state more than 30 days prior to the first emergency room visit.

The following policy outlines the residence requirements for state benefit programs.

All Programs

USCIS refers to the U.S. Citizenship and Immigration Services, formerly the Bureau of Citizenship and Immigration or Immigration and Naturalization Service.

[Insert.]/[Insert.]

To be eligible, a person must be a Michigan resident. BEM 220 (January 2012), p. 1.

The following policy outlines the eligibility requirements for FAP group members when group members are absent from the home.

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 (April 2012), p. 2.

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.

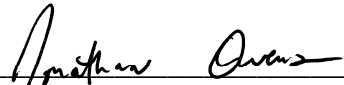
In regards to the Department's failure to reinstate Claimant's FAP benefits upon a timely hearing request, while the Department did fail to act in accordance with policy, this Administrative Law Judge is unable to order the Department to reinstate those benefits since this Administrative Law Judge has found the case action originally taken was supported by policy.

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.

[Insert.]/[Insert.]

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


Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 14, 2013

Date Mailed: January 14, 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

JWO/pf

cc:

