

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

IN THE MATTER OF:



Reg. No.: 2014-27748
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: May 8, 2014
County: Bay

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on Thursday, May 8, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant and his Authorized Representative, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], HF and [REDACTED], ES.

ISSUE

Did the Department properly deny Claimant's application for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

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 : MA benefits.
2. On November 14, 2013, the Department denied Claimant's application failure to provide verification that he had primary physical custody of his eligible son.
3. On November 14, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
4. On February 5, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) 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 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, the Claimant applied for MA on November 14, 2013. Department Exhibit 1-22. The Claimant listed his [REDACTED] as a member of his household, which made him eligible for MA-LIF. However, the Claimant's [REDACTED] was listed on the the Claimant's [REDACTED]. According to the Department's policy, first in time equals first in right. However, if the Claimant's [REDACTED] was primarily living with [REDACTED] then his [REDACTED] did not have a right to have MA benefits.

Although the Claimant and his Authorized Representative provided mail with his [REDACTED] [REDACTED], the Claimant [REDACTED] at the Claimant's address, his [REDACTED] being mailed to the Claimant's address, and the Claimant's [REDACTED] with the Claimant's [REDACTED] on it. The Department determined that it was not sufficient verification as was required based on policy of BEM 135, page 7 of [REDACTED] cords of who takes the [REDACTED] to their [REDACTED]. Subsequently, the Claimant's [REDACTED] submitted a [REDACTED] stating that [REDACTED] for the majority of the time. BEM 135.

This Administrative Law Judge finds that there was enough corroborating evidence to initiate a FEE investigation before denying the Claimant's application. The Claimant's [REDACTED] is [REDACTED], which makes some of the requirements of existing policy not valid in determining who the [REDACTED] with, but a FEE investigation would have cleared up any inconsistencies.

The Administrative Law Judge, based upon 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 did not initiate a FEE investigation to determine who the [REDACTED]

DECISION AND ORDER

Accordingly, the Department's 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. Initiate a redetermination of the Claimant's eligibility for MA based on his application received by the Department on November 14, 2013 by reregistering the application on BRIDGES and initiating a FEE investigation to determine who the Claimant's [REDACTED] is living with and whether or not the Claimant's [REDACTED] MA case should be closed.
2. Provide the Claimant with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she/he may be eligible to receive, if any.

Carmen G. Fahie

Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 6/4/14

Date Mailed: 6/4/14

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 Claimant;
- 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.

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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

CGF/tb

cc:

