

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 14-007071
Issue No.: 1000; 2001;3001
Case No.: ██████████
Hearing Date: August 21, 2014
County: Wayne-District 17

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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, a telephone hearing was held on August 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Worker and ██████████, Agency Translator.

ISSUE

Did the Department properly process Claimant's Family Independence Program (FIP), Food Assistance Program (FAP), and Medical Assistance (MA) benefits?

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 was not an ongoing recipient of FIP benefits and did not submit an application for FIP benefits.
2. Claimant was an ongoing recipient of FAP benefits.
3. On July 1, 2014, the Department sent Claimant a Notice of Case Action informing him that effective August 1, 2014, he was approved for FAP benefits of \$75 based on a group size of two, as his daughter was removed from the FAP group on the basis that she was an ineligible student. (Exhibit 1)
4. Claimant's daughter was an ongoing recipient of MA benefits.

5. In connection with a redetermination, Claimant's daughter's eligibility to receive MA benefits was reviewed. (Exhibit 2)
6. Claimant's daughter's eligibility for MA was terminated effective July 1, 2014.
7. On July 11, 2014, Claimant submitted a hearing request disputing 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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

Claimant submitted a hearing request disputing the actions of the Department with respect to his FIP benefits. Soon after commencement of the hearing, Claimant testified that he was not an active and ongoing recipient of FIP benefits and that he had not submitted an application for FIP prior to his filing of a hearing request. Therefore, the Department had neither determined Claimant's eligibility for FIP nor had the Department taken any negative action with respect to Claimant's FIP benefits prior to her hearing request; therefore, Claimant's hearing request with respect to FIP is **DISMISSED** for lack of jurisdiction. BAM 600 (July 2014).

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Claimant submitted a hearing request disputing the Department's removal of his daughter as a FAP group member on the basis that she was not an eligible student. A person who is in student status and does not meet the criteria in BEM 245 is a non-group member and is not eligible to receive FAP benefits. BEM 212 (July 2014), p. 9. A person enrolled in a post-secondary education program may be in student status and eligible for FAP assistance, provided that certain eligibility criteria are met. BEM 245 (July 2014), pp.3-5.

At the hearing, Claimant confirmed that his daughter is [REDACTED] years old, that she is enrolled as a full time college student, and that she is not employed. Claimant testified that his daughter is not physically or mentally unfit for employment and that she does not participate in an on the job training or in a work study program. Claimant's daughter is also not a single parent nor does she provide more than half of the physical care of a group member under the age of six. BEM 245, pp.2-4.

Based on the above information and additional testimony provided at the hearing by both Claimant and the Department, Claimant's daughter does not meet any of the criteria found in BEM 245; and is therefore not eligible to receive FAP benefits. BEM 245, pp.2-4. Therefore, the Department properly removed Claimant's daughter from the FAP group.

MA

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Claimant submitted a hearing request disputing the Department's termination of his daughter's MA benefits. At the hearing, the Department testified that in connection with a MA redetermination, Claimant's daughter's eligibility to receive MA benefits was reviewed. (Exhibit 2). The Department stated that Claimant's daughter was previously approved for MA under the Other Healthy Kids (OHK) category; however, because she turned [REDACTED] years old, she was no longer eligible for MA on her father's case and had to submit a new MA application for herself.

The Department presented a FMA-Notice Reasons summary detailing the reasons for Claimant's daughter's case closure. A review of the notice reasons reveals that the Department closed Claimant's daughter's MA case on the basis that she was not under 21, pregnant, or a caretaker of a minor child in the home, that she was not over age 65, blind or disabled. (Exhibit 3). At the hearing, the Department confirmed that Claimant's daughter was in fact still under age 21 and that she may have been eligible to receive MA under the Group 2 Persons Under Age 21 category. BEM 132 (July 2013), p.1.

Additionally, an ex parte review is required before MA case closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories. BAM 210 (July 2014), p. 1; See BAM 115 and 220.

At the hearing, the Department stated that it was unsure whether an ex-parte review was conducted prior to terminating Claimant's daughter's MA benefits under the OHK category.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that because the Department failed to complete a thorough ex parte review to determine Claimant's daughter's eligibility for MA under all categories, the Department did not act in accordance with Department policy when it terminated Claimant's daughter's MA benefits, effective July 1, 2014.

DECISION AND ORDER

Accordingly, the hearing request with respect to FIP is DISMISSED and the Department's decision is AFFIRMED IN PART with respect to FAP and REVERSED IN PART with respect to MA.

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. Reinstate Claimant's daughter's MA case effective July 1, 2014;
2. Complete an ex parte review to determine Claimant's daughter's eligibility for any other MA program, under the most beneficial category;
3. Issue retroactive MA coverage to Claimant's daughter for any MA benefits that she was entitled to receive but did not from July 1, 2014, ongoing; and
4. Notify Claimant of its decision in writing.



Zainab Baydoun

Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/25/2014**

Date Mailed: **8/25/2014**

ZB / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

