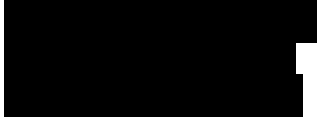


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201416938
Issue No.: 2001; 3001
Case No.:
Hearing Date: January 14, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 January 14, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included , Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application for 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 an ongoing recipient of FAP benefits and MA coverage under his father's case.
2. On 2013, Claimant turned years of age.
3. On 2013, Claimant filed an application for FAP and MA benefits.
4. The Department was unable to get Claimant's father to verify that Claimant no longer lived with him.

5. On [REDACTED], 2013, the Department sent Claimant a Notice of Case Action denying his MA and FAP application.
6. On [REDACTED] 2013, Claimant filed a request for hearing disputing the Department's action.

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).

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

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, Claimant applied for his own FAP and MA case when he turned [REDACTED] years old on [REDACTED], 2013. The Department testified that the application was denied because Claimant received FAP and MA benefits under his father's case and the Department had been unable to verify from the father that Claimant no longer lived with him.

Denial of FAP Application

When a member leaves a FAP group to apply on his own or to join another group, the Department must do a member delete in the month it learns of the application/member add and initiate recoupment if necessary. BEM 212, p. 9 BEM 550 (July 2013), p. 4. Therefore, the Department was required to remove Claimant from his father's case in [REDACTED] 2013, the month of Claimant's FAP application, and process Claimant's application.

The Department testified that it was concerned that Claimant continued to live with his father. Parents and their children under age 22 who live together must be in the same FAP group. BEM 212 (October 2013), p. 1. To ensure that Claimant was no longer residing with his father, it attempted to contact the father to verify Claimant's residence. However, the father did not respond to its attempts to contact him. Subsequently, the Department denied Claimant's FAP application.

The Department has the authority to verify FAP group composition matters if the information given is questionable. BEM 212, p. 10. However, the Department may not deny FAP eligibility for a person outside the FAP group's failure to cooperate with a verification request. BAM 105 (January 2014), p. 7.

In this case, Claimant denied living with his father. In his application, he indicated that he was homeless and identified as his mailing address the address that his brother used as his mailing address in his benefit case. This address was different than Claimant's father's address. Because there was no evidence that Claimant resided with his father and the Department could not deny Claimant's FAP application because of his father's failure to cooperate, the Department did not act in accordance with Department policy when it denied Claimant's FAP application.

Denial of MA Application

The Department denied Claimant's MA application because Claimant received MA coverage under his father's case. At the hearing, the Department testified that Claimant was receiving MA coverage, along with his father, under the Low-Income Family (LIF) program. At the time of application, MA eligibility under the LIF program was available to households with children under 18 years of age or children age 18 or 19 and full-time high school students who are expected to graduate before age 20. BEM 110 (July 2013), p. 6. However, the child has to live with the parent. BEM 110, p. 6.

While Claimant's application showed that he continued to be enrolled in high school, as indicated above, he indicated that he no longer lived with his father. The Department testified that it attempted to contact Claimant's father to verify that Claimant no longer lived with him. The Department may collaterally contact a person to verify information from a client when it is necessary because available evidence needs clarification. BAM 130 (July 2013), p. 2. If the Department cannot obtain verification despite a reasonable effort, the Department must use the best available information or, if no evidence is available, its best judgment. BAM 130, p. 3.

Because the Department could not verify Claimant's living arrangements from Claimant's father, it was required to use its best judgment. In this case, Claimant credibly testified that he no longer resided with his father. He provided a different mailing address on his application than his father's address. It is further noted that there was no evidence that Claimant failed to cooperate with the Department's request for information. See BEM 211 (July 2013), p. 1 (providing that a person who refuses to provide information necessary to determine MA eligibility is not eligible for MA). Under the facts presented, the Department did not act in accordance with Department policy when it denied Claimant's MA application.

It is further noted that Claimant, whose [REDACTED] birthday coincided with the date he submitted his [REDACTED], 2013, MA application, was potentially eligible for MA under the Other Healthy Kids (OHK) program or the Group 2 Under 21 (G2U) program. BEM 131 (July 2013), p. 2; BEM 132 (July 2013), p. 1. Because the Department did not

consider Claimant's eligibility under these programs, it did not act in accordance with Department policy. See BEM 105 (July 2013), p. 2.


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 the Department did not act in accordance with Department policy when it denied Claimant's MA and FAP application.

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. Reregister Claimant's [REDACTED], 2013, MA and FAP application;
2. Reprocess the application;
3. Provide Claimant with MA coverage he is eligible to receive from the date of application;
4. Issue supplements to Claimant for any FAP benefits he is eligible to receive but did not from [REDACTED], 2013, ongoing; and
5. Notify Claimant in writing of its decision.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 21, 2014

Date Mailed: January 21, 2014

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 client;
- 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.

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

ACE/tlf

cc:

