

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-22915
Issue No(s): 2001, 3001
Case No.: [REDACTED]
Hearing Date: February 12, 2014
County: Eaton

ADMINISTRATIVE LAW JUDGE: DARRYL T. JOHNSON

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 February 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) and close her 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 and her minor child were ongoing FAP and MA recipients.
2. On January 7, 2014, the Department received an email from Child Protective Services stating the child was removed from the home on December 30, 2013.
3. Because the child was no longer in the home, the Department removed the child from Claimant's case, leaving only Claimant in her group as of January 8, 2014.
4. Claimant is not under 21, pregnant, or a caretaker of a minor child in her home. She is not over 65, blind, or disabled.
5. On January 13, 2014 Claimant requested a hearing.

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.

Claimant's FAP was originally based on a group size of two. She was receiving the maximum benefits available to a group of two. When her child was removed from the home, she became a group of one, and was approved for \$[REDACTED] the maximum benefits available for a group of one.

Claimant's MA was predicated on her having a minor child in the home. When the child was removed, she was no longer eligible for MA.

At page 1, BEM 105 provides:

The Medicaid program is comprised of several sub-programs or categories. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled.

Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, Plan First!, and Adult Medical Program is based on Modified Adjusted Gross Income (MAGI) methodology.

At page 1, BEM 126 provides:

MA is available to a pregnant woman who meets the nonfinancial and financial eligibility factors in this item.

At page 1, BEM 132 provides:

MA is available to a person who is under age 21 and meets the eligibility factors in this item. All eligibility factors must be met in the calendar month being tested.

At page 1, BEM 135 provides:

MA is available to parents and other caretaker relatives who meet the eligibility factors in this item. All eligibility factors must be met in the calendar month being tested.

A caretaker relative is a person who meets all of the following requirements:

Except for temporary absences, the person lives with a dependent child. Use "CARETAKER RELATIVE NONFINANCIAL TEMPORARY ABSENCE" below. Dependent child is defined later in this item.

The person is:

The parent of the dependent child; **or**

The specified relative (other than a parent) who acts as parent for the dependent child. Specified relative is defined later in this item. Acts as parent means provides physical care and/or supervision.

* * *

A provision is made in BEM 135 for a child who is temporarily absent from the home.

A person's absence is temporary if:

- His location is known; **and**
- There is a definite plan for his return; **and**
- He lived with the group before the absence;

Note: Newborns and unborns are considered to have lived with the group; **and**

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

The Claimant testified that the child is still out of the home. Because she was removed on December 30, more than 30 days have passed during her absence and the child's absence therefore is not temporary.

In BEM 166, Group 2 Aged, Blind and Disabled benefits are available to certain people.

MA is available to a person who is aged (65 or older), blind or disabled.

The Claimant testified that she has applied for disability benefits through state and federal agencies. She has not yet been found to be disabled. While her testimony concerning her position suggests she has health challenges, the undersigned cannot conclude that she is disabled because that issue is not properly before him. The evidence supports the Department's finding that Claimant is not eligible for MA after her child was removed from the home.

BEM 212 details the manner in which a FAP group is determined.

Parents and their children **under** 22 years of age who live together **must** be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group.

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:

The person's location is known.

The person lived with the group before an absence (newborns are considered to have lived with the group).

There is a definite plan for return.

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

Exception: The absence may last longer than 30 days if the absent person is in a hospital and there is a plan for him to return to the home.

Claimant's group consisted of only her when the child was removed because the child's absence was not temporary..

The Claimant did not dispute the amounts used by the Department in her budget. There is no evidence that the Department erred in its calculation of Claimant's FAP benefits after taking into account her group's monthly earned and unearned.

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 acted in accordance with Department policy when it decreased Claimant's FAP benefits and when it closed her MA.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 13, 2014

Date Mailed: February 13, 2014

NOTICE OF APP EAL: 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

DTJ/las

cc:

