

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

IN THE MATTER OF:

██████████
████████████████████
██

Reg. No.: 2014-9775
Issue Nos.: 2002, 3001
Case No.: ██████████
Hearing Date: December 11, 2013
County: Macomb (50-12)

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, an in-person hearing was held on December 11, 2013, from Mt. Clemens, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits and Medical Assistance (MA) coverage?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On October 9, 2013, Claimant applied for FAP and MA.
2. Claimant's household has three members: Claimant, her husband, and their minor child.
3. The Department was not able to complete Claimant's FAP interview.
4. On October 11, 2013, the Department sent Claimant a Notice of Case Action denying the FAP application because no group members were citizens or eligible aliens or provided proof of citizenship or immigration status.

5. In connection with processing the MA application, on October 11, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting 30 days of check stubs or earning statements for her and her husband by October 21, 2013.
6. On October 18, 2013, Claimant timely provided a single paystub for her employment covering a two-week pay period and no proof of employment income for her husband.
7. On October 22, 2013, the Department sent Claimant a Notice of Case Action denying MA for her and her husband because she had failed to provide the requested pay information.
8. On October 30, 2013, Claimant filed a request for hearing disputing the Department's actions concerning her FAP and MA application.

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 requested a hearing concerning the Department's actions on her MA and FAP application.

Denial of FAP Application

The Department denied Claimant's FAP application because its system showed that none of the household members were US citizens. To receive FAP benefits, a person must be a U.S. citizen or have an acceptable alien status, and individuals who do not meet this requirement are disqualified from FAP eligibility. BEM 225 (July 2013), p. 1. Acceptable alien status includes individuals who are permanent resident aliens and meet one of the following criteria: (i) have been in the U.S. for five years; (ii) meet the Social Security Credits (SSC) requirements; (iii) have permanent residency cards (I-551) with a class code of RE, AS, SI, AM or SQ; (iv) are under 18 years of age; or (v) are lawfully residing in the United States and disabled. BEM 225, pp. 3, 5-6, 8, 9.

At the hearing, Claimant credibly testified that all her household members were permanent resident aliens who had been in the United States for eight years. As such, they have acceptable alien status. Therefore, the Department did not act in accordance with Department policy when it denied Claimant's FAP application on the basis that the group had no eligible aliens. Because the Department did not request verification of alien status, the Department could not rely on Claimant's failure to provide verification as a basis for denying the application. See BAM 130 (July 2013), p. 130.

At the hearing, the Department testified that Claimant did not complete the interview required in connection with her FAP application, and, as such, the Department was not aware of the household's immigration status. A client is required to participate in an interview in connection with a FAP application, but the Department may not deny the application for failure to complete the interview until the 30th day after the application date if the client has not participated in the initial interview. BAM 115 (July 2013), pp. 16-18. Therefore, the Department could not rely on Claimant's failure to complete the October 11, 2013, interview to deny her October 9, 2013, application.

MA Application

The Department approved Claimant's child for MA coverage for Emergency Services Only (ESO) effective October 1, 2013, and denied Claimant's MA application for her and her husband because she failed to verify requested income information for her and her husband.

(i) Child's Coverage

Citizenship/alien status is not an eligibility factor for ESO services. BEM 225, p. 2. However, a client is entitled to coverage under the MA program that is most beneficial. BEM 105 (July 2013), p. 2. A child is eligible for MA coverage under the Other Healthy Kids (OHK) program or under the Group 2 Under 21 (G2U) program if he is a citizen or meets the citizenship or acceptable alien status requirements. BEM 131 (July 2013), p. 2; BEM 132 (July 2013). Acceptable alien status for MA purposes includes a permanent resident alien with a class code on the I-551 other than RE, AM or AS who has been in the US for more than 5 years. BEM 225, pp. 7-8. Because the Department did not consider the child's alien status in this case, the Department did not act in accordance with Department policy when it found him eligible for only ESO MA coverage.

(ii) Claimant and Husband's Application

The Department testified that Claimant's and her husband's application was denied because Claimant failed to provide verification of 30 days of employment income for each of them.

In her application, Claimant identified employment income for only herself. She credibly testified that her husband had last worked in March 2013. The Department relied on information in its system showing that Claimant and her husband had both received employment income. The Department must verify income that stopped within the 30

days prior of the application date. BEM 505 (July 2013). Because Claimant's husband's employment had ended in March 2013, more than 30 days prior to the October 9, 2013, application, Claimant was not required to provide verification of her husband's income or end of employment.

However, Claimant acknowledged that she had accidentally provided only one paycheck from her employment and that the paycheck covered a two-week period. The Department must determine income eligibility for an MA applicant. BEM 530 (July 2013), p. 1. Because Claimant failed to provide 30 days of employment income, the Department acted in accordance with Department policy when it denied Claimant's and her husband's application for MA for failure to verify Claimant's employment income.

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 acted in accordance with Department policy when it denied Claimant's and her husband's MA application but did not act in accordance with Department policy when it denied Claimant's FAP application and limited the son's MA coverage to ESO.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to denial of Claimant's MA application for her and her husband and REVERSED IN PART with respect to denial of Claimant's FAP application and limiting Claimant's son's MA coverage to ESO.

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 October 9, 2013, FAP and MA application;
2. Reprocess the FAP application and the son's MA eligibility;
3. Issue supplements to Claimant for any FAP benefits she is eligible to receive but did not from October 9, 2013, ongoing;
4. Provide Claimant's son with MA coverage he is eligible to receive from October 1, 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: December 17, 2013

Date Mailed: December 17, 2013

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/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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