

**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.: 15-000825
Issue No.: 2004;3000
Case No.: ██████████
Hearing Date: February 18, 2015
County: MACOMB-20 (WARREN)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

**HEARING DECISION AND ORDER OF DISMISSAL
FOR LACK OF JURISDICTION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and 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 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████-██████████ Hearings Facilitator.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) application of September 3, 2014?

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 on September 3, 2014.
2. This application was processed for three members of Claimant's group; it was not processed for the Claimant.
3. On January 5, 2015, Claimant requested a hearing regarding FAP and MA benefits.
4. No hearing was requested on the new Department action regarding MA benefits.

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 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.

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.

With regards to Claimant's request for a hearing on FAP benefits, regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the Claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (2014), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In the present case, the Department sent Claimant a Notice of Case Action advising Claimant of its decision to deny Claimant's application for benefits for the Food Assistance Program (FAP).

The Department's Notice of Case Action to Claimant was dated October 2, 2014. However, Claimant did not file a request for hearing to contest the Department's action until January 5, 2014.

Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction.

With regard to the MA application, Claimant applied for MA benefits on September 3, 2015. This application was processed for three members of Claimant's household, but not apparently, for the Claimant herself.

Claimant testified that she had applied for herself on this application, and the Department presented no evidence rebutting this testimony. The undersigned finds it highly unlikely that a Claimant would request program benefits only for a limited number of members in the Claimant's household, and not for the Claimant herself; as such, the undersigned finds Claimant's testimony credible. As such, the Department must process Claimant's application of September 3, 2014 for MA benefits for the Claimant herself.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**, with regards to Claimant's MA benefits.

Claimant's request for hearing with regard to FAP benefits is, hereby, **DISMISSED**.

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. Process Claimant's MA application of September 3, 2014 for the Claimant herself, retroactive to the date of application.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/4/2015**
Date Mailed: **3/4/2015**
RJC / tm

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the Claimant may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County.

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]