

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-016938
Issue No.: 3000, 2001, 2008
Agency Case No.: [REDACTED]
Hearing Date: November 05, 2015
County: Macomb (20) Warren

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 5, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor, and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close the Petitioner's daughter from the Medical Assistance (MA) group?

FINDINGS OF FACT

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

1. At the hearing, the Petitioner withdrew her hearing request for Food Assistance Program (FAP) benefits dated September 14, 2015, as the issue had been fully resolved without any loss of benefits.
2. The Petitioner was an ongoing recipient of MA based upon Supplemental Security Income (SSI), and her children were eligible for LIF (low income family) eligibility with minor children in the MA group.
3. The Petitioner has a minor child, age [REDACTED] who has been in a childcare facility due to her running away from home. The Department closed the Petitioner's daughter's MA but did not provide Petitioner notice of the closure.

4. The Petitioner's minor daughter has not had health care coverage since [REDACTED], [REDACTED] when her coverage ended, no notice terminating coverage was sent to the Petitioner. The Department, although aware of the fact that the Petitioner's daughter was not in the home as of [REDACTED], the Department has never issued a Notice regarding the daughter's eligibility, thus, no processing of the case has occurred.
5. As part of the redetermination that Petitioner completed for August 2015, the Petitioner advised the Department that her daughter was in a facility called [REDACTED] [REDACTED] (not a youth home) and was going to return home but could not determine the exact date. The Petitioner reapplied for MA in July 2015 as part of the redetermination and included her daughter as part of the household. The Department did not process the application for the Petitioner's daughter and has not denied the application.
6. The Petitioner reported her daughter out of the household in [REDACTED]. Verification was filed by Petitioner as part of the redetermination filed on July 28, 2015, establishing the Petitioner's daughter was out of house.
7. The Petitioner requested a timely hearing on September 14, 2015, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department has attempted to add the Petitioner's minor daughter to the MA group unsuccessfully. The Department has also sought a Help Desk Ticket, but no correction to the Petitioner's daughter being added to the MA group has been accomplished. The Department has been unable to process the Petitioner's request to add her minor daughter to the Petitioner's MA group. The Petitioner's daughter was not currently living with her at the time of the redetermination. The Department did not issue any Health Care Coverage Determination Notice with respect to the Petitioner's daughter's eligibility; and therefore, the Department failed to meet its burden of proof to show that they properly determined the Petitioner's daughter's eligibility and that she was no longer eligible on Mary 28, 2015.

The Department also conceded that it believed that Petitioner's daughter should be eligible and that no loss of coverage should have occurred. The Petitioner is required to appear in court as of November 10, 2015, to determine when the daughter will be returned to her home. There has been no removal of the Petitioner's daughter from the Petitioner's custody.

Department policy found in BEM 211 MA Group Composition provides:

**SSI-Related MA, Group 2 Pregnant Women, Group 2
Persons Under Age 21, Group 2 Caretaker Relative**

Living with others means sharing a home where family members usually sleep, **except** for temporary absences. A temporarily absent person is considered in the home.

**Temporary
Absence**

**SSI-Related MA, Group 2 Pregnant Women, Group 2
Persons Under Age 21, Group 2 Caretaker Relative**

A person's absence is temporary if for the month being tested:

- His location is known; **and**
- There is a definite plan for him to return home; **and**
- He lived with the group before the absence (**Note:** newborns and unborns are considered to have lived with their mothers); **and**
- The absence did not last, or is not expected to last, the entire month being tested unless the absence is for education, training, or active duty in the uniformed services of the U.S.

Exception: An absence is never temporary when:

- The month being tested is an L/H month (see BPG) for the absent person; or
- The absent person is in one of the following on the last day of a past month or on the processing date for current and future months:
 - Long-term care (LTC) facility.
 - Adult foster care facility.
 - Home for the aged.
 - Licensed child foster care home.
 - Child caring institution.

Therefore, the above persons (including spouses residing in the same facility) are never considered to be living with others. A child who has resided in a hospital for 30 or more days is not considered to be living with others and is a fiscal group of one. Certify for 12 months before re-determining eligibility for the child. BEM 211 (January 1, 2015) p. 3-4.

Based upon this policy, it is determined that the Petitioner's daughter while out of the home could not be considered a temporary absence, as the minor child was in a child caring facility, and thus, the Petitioner's child can never be considered to be living with others.

Based upon the evidence presented at the hearing, it is determined that the Department failed to close the Petitioner's daughter's case effective [REDACTED] 2015, when it received notice that the child was not in the home. At that time, although no closure occurred, the Department determined there was no coverage for the minor child and could not explain how this could happen. Since the redetermination, the Department has not processed an eligibility determination for the Petitioner's minor daughter due to a Bridges glitch. Notwithstanding this glitch and the Department's efforts to fix the problem, the minor child still has no medical coverage even though the coverage previously afforded by the Department was never closed.

At the hearing, the Petitioner's Request for Hearing Regarding FAP benefits was withdrawn on the record.

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 determined the Petitioner's daughter who was an MA group member was ineligible but did not issue a Health Care Coverage Determination Notice. Therefore, the Department did not establish by its proofs why coverage ended. In addition, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it could not be determined how the eligibility was ended.

DECISION AND ORDER

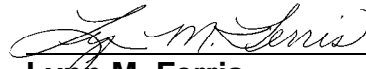
Accordingly, the Department's decision is **REVERSED**.

The Petitioner's Request for Hearing Regarding FAP benefits dated September 14, 2015, was withdrawn on the record, and therefore, is **DISMISSED**.

IT IS SO ORDERED

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. The Department shall reinstate the Petitioner's minor daughter's MA for May 31, 2015, ongoing.
2. The Department shall process the Petitioner's July application for MA for Petitioner's minor daughter if required to effectuate ongoing MA and determine eligibility for the Petitioner's daughter.
3. The Department shall provide written Notice to the Petitioner regarding the Petitioner's minor daughter's MA eligibility.



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **11/10/2015**

LMF/jaf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

