

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. Nos.: 15-021872
& 15-020556
Issue No.: 2001; 3008
Agency Case No.: [REDACTED]
Hearing Date: December 21, 2015
County: WAYNE-DISTRICT 17
(GREENFIELD/JOY)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 December 21, 2015, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator. [REDACTED], lead worker with the Office of Child Support (OCS), participated via three-way telephone conference as a witness for the Department.

ISSUE

Did the Department properly remove two of Petitioner's children, [REDACTED] (TS) and [REDACTED] (LJ), from her Food Assistance Program (FAP) group?

Did the Department properly provide Medicaid (MA) coverage to LJ?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of FAP benefits with a six-member FAP group consisting of Petitioner and five children.
2. On [REDACTED], the Department received notification from OCS on its Bridges system that TS and LJ had left Petitioner's home and the children should be removed from Petitioner's case (Exhibit A).

3. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that effective [REDACTED] LJ and TS were removed from her FAP group because they were no longer in Petitioner's home and, consequently, her monthly FAP benefits were decreased.
4. On [REDACTED] and [REDACTED], Petitioner filed requests for hearing concerning the decrease in her FAP benefits and her MA case.

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).

Petitioner filed a hearing request on [REDACTED] concerning the reduction of her FAP benefits and her MA case that resulted in Michigan Administrative Hearing System (MAHS) registration number 15-020556. She filed a second hearing request on [REDACTED] concerning her FAP case that resulted in MAHS registration number 15-021872. At the hearing, Petitioner testified that both hearing requests concerned the reduction of her FAP benefits effective [REDACTED] due TS and LJ being removed from her household. She also clarified that she was concerned only about the MA for LJ. The hearings were consolidated and this Hearing Decision addresses the issues raised by Petitioner in both the [REDACTED] and [REDACTED] hearing requests.

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.

The Department testified that the removal of TS and LJ from Petitioner's FAP case was due to a notice it received from OCS that the children were no longer in Petitioner's

household. The Department's hearing summary indicates that, when LJ and TS were removed from Petitioner's household, their MA cases closed. However, the Department did not present any evidence showing that Petitioner was notified of the closure of the children's MA cases.

Individuals who do not live together cannot be in the same FAP group. BEM 212 (October 2015), p. 1. A parent/caretaker may receive MA for a dependent child when the child and caretaker live together and the caretaker is the primary caretaker of the child. BEM 211 (January 2015), pp. 1-2.

At the hearing, Petitioner testified that TS and LJ continued to reside with her and had not left her home. Despite the Department's position that it removed the children from Petitioner's cases at the prompting of information received from OCS, OCS testified that there was no notation in its records indicating that TS and LJ were no longer in Petitioner's care and concluded that there must have been an error. At the very end of the hearing, the Department testified that its records reflected that there was an ongoing investigation by Protective Services concerning Petitioner's residence and the children in her care with a report of suspected child abuse or neglect filed December 15, 2015. However, this testimony failed to establish that TS and LJ were no longer in Petitioner's household.

Because the Department has failed to establish that TS and LJ were not living with Petitioner in her household, 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 closed TS's and LJ's MA cases and removed TS and LJ from Petitioner's FAP group.

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. Recalculate Petitioner's FAP benefits for [REDACTED] to include TS and LJ in Petitioner's FAP group;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED] ongoing;
3. Activate MA coverage for TS and LJ effective [REDACTED]; and

4. Provide TS and LJ with MA coverage they are eligible to receive from [REDACTED] ongoing.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/23/2015**

Date Mailed: **12/23/2015**

ACE / hw

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:

