

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-009726
Issue No.: 2001, 3001
Case No.: [REDACTED]
Hearing Date: July 28, 2015
County: Montcalm

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on July 28, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department included [REDACTED], Lead Worker, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly close the Claimant's Food Assistance Program (FAP), Medical Assistance (MA) and Medicare Savings Program (MSP) 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. The Claimant was an ongoing Food Assistance Program (FAP), Medical Assistance (MA), and Medicare Savings Program (MSP) recipient.
2. The Claimant used her Food Assistance Program (FAP) benefits exclusively in Texas from October 4, 2015, through February 17, 2015.
3. On April 14, 2015, the Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits as of May 1, 2015.
4. On April 14, 2015, the Department notified the Claimant that it would close her Medical Assistance (MA) benefits as of May 1, 2105.
5. On June 9, 2015, the Department received the Claimant's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits.

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 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 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.

To be eligible for Food Assistance Program (FAP) and Medical Assistance (MA) benefits, a person must be a Michigan resident. Department of Health and Human Services Bridges Eligibility Manual (BEM) 220 (July 1, 2014), p 1.

Nonfinancial requirements of the Medicare Savings Program (MSP) include establishing residency in Michigan. Department of Health and Human Services Bridges Administrative Manual (BAM) 165 (January 1, 2015), p 6.

With respect to FAP benefits, a person is considered a resident while living in Michigan for any purpose other than a vacation, even if there is no intent to remain in the state permanently or indefinitely. Eligible persons may include:

- Persons who entered the state with a job commitment or to seek employment; and
- Students. BEM 220, p1.

A household shall live in the State in which it files an application for participation. The State agency shall not impose any durational residency requirements. The State agency shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility. Nor shall residency require an intent to reside permanently in the State or project area. Persons in a

project area solely for vacation purposes shall not be considered residents. 7 CFR 272.3 (a)

With respect to MA benefits, a Michigan resident is an individual who is living in Michigan except for a temporary absence. Residency continues for an individual who is temporarily absent from Michigan or intends to return to Michigan when the purpose of the absence has been accomplished. BEM 220, p2.

The agency must provide Medicaid to eligible residents of the State, including residents who are absent from the State. 42 CFR 435.403 (a)

The agency may not deny Medicaid eligibility because an individual has not resided in the State for a specified period. 42 CFR 435.403 (j)(1)

Individuals age 21 and over not residing in an institution are considered Michigan residents where the individual is

- living with the intention to remain there permanently or for an indefinite period, or
- living and which the individual entered with a job commitment or seeking employment. 42 CFR 435.403 (i)

The Department will verify a person's address to determine whether they are being serviced by the proper office, but benefits will not be denied because a person lacks a verified address. BEM 220, p6.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2015), pp 1-20.

Reporting requirements include the following address and shelter cost changes that result from the move. BAM 105.

The Claimant was an ongoing FAP, MA, and MSP recipient. The Claimant used her FAP benefits exclusively in Texas from October 4, 2015, through February 17, 2015. While it is permissible for a person to use benefits issued by the state of Michigan in other state, recipient must meet the criteria of those program to remain eligible, which includes having an intent to remain a Michigan resident.

The Claimant testified that she intends to remain a Michigan resident and reported to her caseworker that she would be spending time in Texas and Michigan. The Claimant testified that due to an unexpected illness of another person, she remained in Texas for a longer period than expected. The Claimant testified that despite her extended stay in Texas, she intended to return to Michigan where she maintains a dwelling.

The Claimant testified that she inquired about applying for benefits in Texas but was told that she was ineligible as a Michigan resident. This is not evidence of her intent to remain a Michigan resident through because as a recipient of Michigan benefits she would not have been eligible to receive Texas benefits.

This Administrative Law Judge finds that the Claimant had a duty to notify the Department of any changes to her circumstances that could affect her eligibility to receive benefits. Based on the evidence presented on the record as a whole, this Administrative Law Judge finds that the Claimant failed to present sufficient evidence to establish that she reported her intent to remain a Michigan resident while remaining in Texas for an extended period of time.

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 closed the Claimant's Medical Assistance (MA), Food Assistance Program (FAP), and Medicare Savings Program (MSP) benefits after determining that the Claimant no longer intended to remain a Michigan resident.

DECISION AND ORDER

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



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/31/2015**

Date Mailed: **7/31/2015**

KS/las

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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:

