



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 26, 2016
MAHS Docket No.: 16-004764
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 May 23, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator. [REDACTED], Department PATH worker, served as translator (Spanish).

ISSUE

Did the Department properly close Petitioner and her son's Medicaid (MA) cases?

Did the Department properly process Petitioner's Food Assistance Program (FAP) case?

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 and her minor son moved to Michigan from [REDACTED] in September 2015.
2. Petitioner applied, and was approved by the Department, for MA and FAP benefits for herself and her son.

3. The Department's Office of Inspector General (OIG) received a PARIS Match indicating that Petitioner and her child were active FAP and/or MA benefit recipients in [REDACTED].
4. On March 9, 2016, the OIG sent Petitioner's Department worker a front end eligibility (FEE) investigation report advising her to send Petitioner a verification checklist (VCL) to determine residency and group size (Exhibit A, pp. 3-8).
5. On March 9, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that the MA cases for her and her son would close effective April 1, 2016 because they had active cases in [REDACTED] (Exhibit A, pp. 10-11).
6. On April 8, 2016, the Department received Petitioner's request for hearing disputing the closure of her MA case and FAP case (Exhibit A, p. 2).

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).

At the hearing, Petitioner confirmed that she had requested a hearing concerning the closure of her MA cases. The Department only responded to the closure of the MA case in its hearing summary and in the evidence presented. However, a review of Petitioner's April 8, 2016 hearing request shows that Petitioner disputed the closure of both her MA and FAP cases. Both issues are addressed in this Hearing Decision.

FAP Case

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.

A person may not receive FAP in more than one state for any month. BEM 222 (July 2013). In this case, the OIG FEE investigation report advised the Department worker that Petitioner was possibly receiving FAP benefits in New York concurrently with her receipt of FAP benefits in Michigan and advised the worker to verify Petitioner's residency through the issuance of a verification checklist to Petitioner to allow her 10 days to respond (Exhibit A, pp. 3-4).

Although Petitioner requested a hearing disputing the closure of her FAP case, it is unclear from the evidence presented at the hearing what action the Department took, if any, in response to the report. However, there was no evidence that the Department sent Petitioner a VCL to allow her to verify her Michigan residency or to verify the end of her [REDACTED] benefits before taking any actions to her FAP case. See BAM 130 (January 2016), p. 1; BEM 220 (January 2016), p. 2. Furthermore, under Department policy, the Department may verify a client's out-of-state receipt of food assistance. BEM 222 (July 2013), p. 4. In fact, after Petitioner requested a hearing, the Department directly contacted the out-of-state inquiry response unit for the State of [REDACTED] concerning Petitioner's FAP case and was advised in an April 13, 2016 letter that her [REDACTED] food stamp case was closed as of March 31, 2016 (Exhibit A, pp. 12-13; Exhibit B). Therefore, any action by the Department closing Petitioner's FAP case or reducing her FAP benefits after March 31, 2016 based on duplicate receipt of benefits is not supported by the evidence presented.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's FAP case.

MA Case

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.

Petitioner also requested a hearing concerning the closure of her and her son's MA cases. In the March 9, 2016 Health Care Coverage Determination Notice sent to Petitioner notifying her of the MA case closures effective April 1, 2016, the Department indicated that the cases were closing because Petitioner requested that assistance be stopped and because Petitioner was not the caretaker of a minor child. At the hearing, the Department acknowledged that Petitioner had not requested that her MA assistance be terminated and that Petitioner was the parent of a minor child in her home and conceded that Petitioner's MA cases were closed not due to these reasons. Rather, the cases were closed due to the reason listed under the "comments from your specialist" section that Petitioner was receiving assistance in [REDACTED].

A client is prohibited from receiving duplicate benefits from different states except in limited circumstances. BEM 222 (July 2013), p. 1. With respect to MA, the Department is required to assume that a client is not receiving medical benefits from another state at application unless evidence suggests otherwise and, upon approval, the Department is

required to notify the other state's agency of the effective date of the client's medical coverage in Michigan. BEM 222, pp. 2-3.

In this case, Petitioner testified that she moved from [REDACTED] to Michigan in September 2015. Consistent with her testimony, the PARIS Match information shows that Petitioner began receiving MA benefits in Michigan on September 1, 2015 (Exhibit A, p. 6). Under BEM 222, the onus was on the Department to notify [REDACTED] of Petitioner's receipt of MA benefits. Furthermore, the OIG FEE investigation report does not clearly indicate that Petitioner and her son were receiving MA benefits from [REDACTED] concurrently with their receipt of MA benefits from the Department (Exhibit A, p. 6). The January 20, 2016 letter from HealthFirst that Petitioner provided to the Department, though written in Spanish, seems to indicate that her health insurance coverage under the Medicaid program provided by the State of [REDACTED] was cancelled effective December 31, 2015 (Exhibit A, p. 9). The verification the Department received directly from the out-of-state inquiry response unit of the [REDACTED] showed that Petitioner's MA case in the [REDACTED] district was closed as of April 7, 2011 (Exhibit B). To the extent the Department believed that Petitioner no longer resided in Michigan as implied in the FEE investigative report, the Department failed, contrary to Department policy, to give Petitioner the opportunity to clarify any discrepancy prior to case closure. See BAM 130, pp. 1, 8. Under the evidence presented, the Department failed to establish that Petitioner was receiving MA benefits from [REDACTED] or that Petitioner no longer resided in Michigan when the Department closed Petitioner's MA cases as of April 1, 2016.

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 Petitioner's and her son's MA cases.

DECISION AND ORDER

Accordingly, the Department's MA and FAP decisions are **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. Reinstate Petitioner's and her son's MA cases effective April 1, 2016;
2. Provide Petitioner and her son with the MA coverage they are eligible to receive from April 1, 2016 ongoing;

3. If Petitioner's FAP case closed after March 9, 2016, reinstate the case from the date of closure; and
4. Issue supplements to Petitioner for FAP benefits she was eligible to receive but did not on or after March 9, 2016 due to improper processing of her case based on alleged concurrent receipt of FAP benefits.



ACE/tlf

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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

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