



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

Date Mailed: March 25, 2016
MAHS Docket No.: 16-001115
Agency No.: [REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 March 17, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) 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. Petitioner was an ongoing recipient of FAP and MA benefits.
2. Petitioner's son, Child A was receiving FAP and MA benefits on his father's case.
3. On or around August 26, 2015, Petitioner submitted an application to the Department to have Child A added to her active FAP and MA cases as on that day, she was awarded custody of the child by the Circuit Court in a related matter.
4. On September 8, 2015, the Department sent Petitioner a Notice of Case Action (Notice) informing her that she continued to be eligible for FAP for a group size of

one and in the amount of \$194. The Notice did not advise Petitioner of her son's eligibility for FAP. (Exhibit A)

5. On or around October 19, 2015, November 20, 2015, December 1, 2015, December 7, 2015, and January 7, 2016, Petitioner submitted requests/applications to have her son added to her ongoing FAP and MA cases.
6. On November 25, 2015, Petitioner's Department case worker received communication from a Child Protective Services (CPS) worker verifying that Petitioner's son was returned to her care. (Exhibit B, p. 4)
7. On December 1, 2015, Petitioner requested a hearing disputing the Department's actions. Petitioner did not indicate what program was at issue.
8. On an unverified date, Petitioner submitted a hearing request withdrawal, however, it was unclear which program or which hearing request was being withdrawn.
9. On December 29, 2015, the Department sent Petitioner a Notice advising her that effective January 1, 2016, she was approved for FAP benefits in the amount of \$357 and that her FAP group size was increasing to two, as Child A had been added to her FAP case. (Exhibit C)
10. There were no notices sent to Petitioner advising her of her son's eligibility for FAP prior to the Notice sent on December 29, 2015. The Department also failed to notify Petitioner of her son's eligibility for MA benefits, despite her submitting several requests for MA assistance and to have him added to her case.
11. On January 8, 2016, Petitioner requested a hearing disputing the Department's actions. The Department did not forward Petitioner's hearing request to MAHS, so the request was not scheduled for hearing.
12. On January 25, 2016, Petitioner again submitted hearing request disputing the Department's actions, indicating it was her second request.

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.

Petitioner requested a hearing on January 25, 2016, disputing the Department's actions. A review of Petitioner's hearing request revealed that she did not indicate which program was in dispute, however, Petitioner stated that she requested a hearing disputing the Department's failure to add her children to her active FAP and MA cases. Petitioner clarified at the hearing that there was no longer any issue with her daughter's FAP and MA benefits and that the issue remaining for the hearing was the Department's failure to add her son, Child A to her FAP and MA cases as of her initial member add application date of August 26, 2015. Petitioner asserted that she should be eligible for FAP benefits on behalf of her son, from the August 26, 2015, application date, ongoing, rather than effective January 1, 2016.

Additionally, the Department determines FAP group composition by applying the factors found in BEM 212. BEM 212 (July 2014), p. 1. For FAP cases involving a change in primary caretaker, among other situations, the Department is to re-evaluate primary caretaker status when a new or revised court order changing custody or visitation is provided or a second caretaker applies for assistance for the same child. BEM 212, pp. 3-5. For, FAP purposes, a member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. When a member leaves a group to apply on his own or to join another group, the Department is to do a member delete in the month the Department learns of the application/member add and initiate recoupment of FAP benefits on the other case, if necessary. BEM 212, p. 9. For MA, the Department determines group composition by applying the factors found in BEM 211. BEM 211 (January 2015), pp.1-9. The Department is to process applications and reported changes such as member adds for MA in accordance with the policies found in BAM 110 (July 2015); BAM 115 (October 2015); and BAM 220 (October 2015).

At the hearing, the Department confirmed that it received Petitioner's member add application on August 26, 2015; however, the Department stated that application was submitted to a different local office, so it did not take any action on the application. The Department confirmed that although the case comments indicate that Child A was denied FAP and MA on Petitioner's case because he was eligible for the programs on his father's case, the Department failed to properly notify Petitioner of Child A's FAP and MA eligibility despite her submitting the six member add applications referenced

above. (Exhibit B, p. 36). The Department stated upon receiving confirmation from CPS on November 25, 2015, that Child A was in Petitioner's custody, it added the child to Petitioner's FAP case effective January 1, 2016, however, it was also unclear which application this action taken by the Department was associated with. Petitioner asserted that she provided verification of her being awarded custody to the Department prior to November 2015, which the Department maintained was illegible via the electronic case file.

Upon further review, there was no evidence presented that the Department properly registered or processed any of Petitioner's member add applications/requests or that the Department properly determined Child A's FAP and MA eligibility from the initial August 26, 2015, application date, ongoing. Thus, processing the child's eligibility from August 2015 ongoing should resolve the issues concerning the Department's failure to properly process the subsequent applications submitted.

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 and MA benefits.

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. Process Petitioner's August 26, 2015, member add application, and the reported changes in accordance with Department policies;
2. Issue FAP supplements to Petitioner for any FAP benefits she was entitled to receive but did not, if any, from the August 26, 2015, application date, ongoing;

3. Determine Child A's MA eligibility on Petitioner's MA case from August 26, 2015, ongoing, in accordance with Department policies; and
4. Notify Petitioner in writing of the Department's decisions.



ZB/tlf

Zainab Baydoun

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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