



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 25, 2016
MAHS Docket No.: 16-013632
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

1. Did the Department properly close the Petitioner's Medical Assistance (MA)?
2. Did the Department properly close the Petitioner's Food Assistance Program (FAP?)

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 Petitioner completed a Redetermination for both her FAP and MA for [REDACTED].
2. The Department caseworker closed the Petitioner's MA and FAP based on a task update that the Petitioner's ex-husband was to be added to her case and was living with the Petitioner. Exhibits D and E.

3. The Petitioner was interviewed as part of her redetermination, which was conducted on [REDACTED]. At that time, the Petitioner advised the Department that her ex-husband was not living with her. Exhibit E.
4. The Department issued a Notice of Case Action on [REDACTED], closing the Petitioner's FAP effective [REDACTED], for failure to verify earned income payment due to failure to return the requested verification for [REDACTED] Exhibit E.
5. At the hearing, the Department provided in Eligibility Summary that demonstrated that the Petitioner has ongoing MA and is eligible for Qualified Medicare Beneficiary (QMB) although she is not being reimbursed for QMB because the Department did close QMB for a short period of time.
6. A Verification Checklist (VCL) dated [REDACTED], requested the Petitioner to verify [REDACTED] wages, salaries, and tips for the last 30 days and to provide check stubs or earnings statements. Exhibit C. The Petitioner filed a timely response to the VCL advising the Department that [REDACTED] did not live in her house. Exhibit D.
7. The Petitioner requested a timely hearing on September 19, 2016.

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 closed the Petitioner's MA and FAP due to its erroneous belief that the Petitioner's ex-husband was living with the Petitioner. During the redetermination, the Department interviewed the Petitioner by telephone and was advised by the Petitioner that [REDACTED] did not live with her. Thereafter, the Petitioner was sent a VCL, which requested that she provide the Department current earnings statements or check stubs for [REDACTED], her ex-husband. In response to the verification, the Petitioner sent the Department a detailed explanation advising the Department that her ex-husband was not living with her and had not lived with her since [REDACTED]. Exhibit D. It is not clear from the record whether or not the Department considered the verification response, which was timely.

The Department closed briefly the Petitioner's Ad Care Medical Assistance and also her QMB cost-sharing program. Based upon the evidence presented at the hearing, there has been no lapse in coverage as both the MA and the QMB cost sharing have been reinstated. As explained at the hearing, however, even though the QMB has been reinstated, the Petitioner will have to wait approximately four months until Social Security reimburses the Petitioner. Based upon the evidence submitted by the Department which demonstrates that both the MA Ad Care and QMB are active, there is no issue for the undersigned to decide.

The Department also closed the Petitioner's FAP due to its erroneous belief that the Petitioner's ex-husband was currently residing in her home. This decision to close the FAP was based on a task reminder received by the caseworker from the Office of Child Support. It does not appear from the record that the Department attempted to determine the Petitioner's ex-spouse's current address based on his driver's license or contact the Office of Child Support.

BEM 212 found in Department policy addresses FAP group composition. The only basis for which the Petitioner's ex-husband could be a mandatory group member would be as the father of the Petitioner's children. BEM 212 (October 1, 2016), p. 1.

In addition, Department policy provides:

All Programs

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, July 1, 2016), p. 9

In this case, the Petitioner timely responded to the VCL advising the Department in detail that [REDACTED] had not lived in her house since [REDACTED]; and she had not spoken to the OCS since [REDACTED]. Exhibit D. Based upon this information and the fact that the Department provided no information from the OCS that there was some basis to place the Petitioner's ex-husband in her house, the Department failed to meet its burden to establish any reasonable basis for its determination to close the Petitioner's FAP. The Task reminder from Child Support indicates a member add,

however, without more or determining the basis for the member add, the Department had no basis to support its decision that the Petitioner's ex-husband was residing in her house. Therefore, the FAP closure, based upon Department policy was in error.

DECISION AND ORDER

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 closed the Petitioner FAP benefits for failure to verify income of her ex-husband.

Accordingly, the Department's decision is **REVERSED as regards its decision to close the Petitioner's FAP case.**

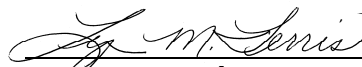
The Petitioner's request for hearing regarding closure of MA and QMB benefits is DISMISSED as there remains no issue to be determined by the undersigned.

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 FAP as of [REDACTED].
2. The Department shall issue an FAP supplement to the Petitioner for any FAP benefits the Petitioner is otherwise eligible to receive in accordance with Department policy.

LMF/jaf



Lynn M. Ferris
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

DHHS

[REDACTED]

Petitioner

[REDACTED]

Via email

[REDACTED]