



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: July 18, 2017  
MAHS Docket No.: 17-007662  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. 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; 42 CFR 438.400 to 438.424; 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 July 13, 2017, from Detroit, Michigan. The Petitioner was represented by her husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator.

**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 has been a legal permanent resident in the U.S. since [REDACTED], 2012. (Exhibit A, p. 1,3,5)
2. In May 2017, Petitioner contacted the Department to advise that she has now been in the U.S. for five years and should be eligible for FAP and MA benefits.
3. On May 31, 2017, Petitioner requested a hearing disputing the Department's actions with respect to her FAP and MA 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).

### **FAP**

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 hearing was requested to dispute the Department's action taken with respect to Petitioner's FAP benefits. Soon after commencement of the hearing, Petitioner's husband testified that there was no issue left to resolve regarding the FAP, as the Department corrected the action by adding Petitioner to the FAP group and approving her for FAP benefits. Petitioner's husband testified that he understands and is satisfied with the actions taken by the Department concerning the FAP and further confirmed that no promises were made in exchange for his withdrawal. The Request for Hearing was withdrawn. As such, the Request for Hearing with respect to FAP is, hereby, **DISMISSED**.

### **MA**

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.

To be eligible for full coverage MA, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (October 2016), pp. 1-2. An individual who is a permanent resident alien with a class code on the permanent residency card other than RE, AM or AS is eligible only for ESO MA coverage for the first five years in the U.S. unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien. BEM 225, pp. 7-8, 30; MREM, § 3.6. A qualified military alien is a qualified alien on active duty in, or veteran honorably discharged from, the U.S. Armed Forces. BEM 225, p. 5; MREM, § 3.6. A person who does not meet an acceptable alien status, including undocumented aliens and non-immigrants who have stayed beyond the period authorized by the U.S. Citizenship and Immigration Services, are eligible only for ESO MA coverage. BEM 225, p. 9. The alien

status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

In this case, the hearing was requested to dispute the Department's actions with respect to Petitioner's MA benefits. At the hearing, the Department testified that Petitioner had been approved for and was receiving emergency services only (ESO) MA under the Low Income Families (LIF) category, as she had not been a legal permanent resident for more than five years. The Department initially testified through its hearing summary that it updated Petitioner's case and found her to be eligible and approved for MA as of May 24, 2017. However, during the hearing, the Department stated that there may be an issue that requires a Help Desk Ticket, as full MA coverage was not showing as approved on the system. (Exhibit B). The Department presented a MA EDG Summary showing that Petitioner continued to eligible for emergency Medicaid services. (Exhibit B). The Department conceded that because Petitioner has been a legal permanent resident for more than five years, she would now be considered potentially eligible for non-ESO coverage. Persons may qualify under more than one MA category. Federal law gives clients the right to the most beneficial category which results in eligibility, the least amount of excess income, or the lowest cost share. Thus, the Department must consider all MA category options in order for the client's right of choice to be meaningful. BEM 105 (April 2017), p. 2.

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 MA benefits and determined she that continued to be eligible for ESO MA coverage.

### **DECISION AND ORDER**

Accordingly, the hearing request with respect to FAP is **DISMISSED** and the Department's MA 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. Reprocess Petitioner's MA benefits to determine her eligibility under the most beneficial category from May 24, 2017, ongoing;
2. Provide Petitioner with MA coverage under the most beneficial category from May 24, 2017, ongoing; and

3. Notify Petitioner in writing of its decision.



ZB/tlf

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**Zainab A. 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

**Via Email:**

MDHHS-Wayne-17-Hearings  
BSC4 Hearing Decisions  
EQAD  
M. Best  
MAHS

**Petitioner – Via First-Class Mail:**

