

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2010-33183
Issue No: 1030, 2005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 10, 2010
Bay County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on June 10, 2010. Claimant appeared and testified.

ISSUES

Did the Department of Human Services over-issue Claimant [REDACTED] of Family Independence Program (FIP) benefits during November and December 2009 which should be collected?

Did the Department of Human Services properly close Claimant's Medical Assistance (MA) case?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant was an ongoing recipient of Adult Medical Program (AMP) benefits.

Claimant became pregnant and was transferred to Medical Assistance (MA) under the Low-Income Family category. Claimant was also approved for, and began receiving Family Independence Program (FIP) benefits.

(2) On October 29, 2009 Claimant's child was stillborn.

(3) In early November Claimant reported her circumstances to the Department.

(4) On December 7, 2009 Claimant's change in circumstances was entered into the BRIDGES computer program. Claimant was sent notice that she was no longer eligible for Family Independence Program (FIP) or Medical Assistance (MA) benefits. The Adult Medical Program (AMP) was closed to enrollment so Claimant was left with no medical coverage. Claimant was also sent a Recoupment Notice for the Family Independence Program (FIP) payments made for November and December 2009.

(5) On January 7, 2010 Claimant submitted a hearing request about medical insurance and the recoupment action.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The first issue that will be addressed is the recoupment of Family Independence Program (FIP) benefits from November and December 2009. The facts of the case are both tragic and

undisputed. Once Claimant did not have a child, her eligibility for Family Independence Program (FIP) ended. There is no evidence on the record that indicates the specific date on which Claimant reported her circumstances to the Department. Claimant's husband testified they sent the Department a copy of the obituary in early November. The Department representative stated that a copy of the obituary was in Claimant's file but it was not date stamped nor was there any other indication when the tragedy had been reported. The evidence is insufficient to determine if the over-issuance was client error or agency error. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

AGENCY ERROR OVERISSUANCES

DEPARTMENT POLICY

All Programs

Recoupment policies and procedures vary by program and overissuance (OI) type. This item explains agency error OI processing and establishment.

[BAM 700](#) explains OI discovery, OI types and standards of promptness. [BAM 715](#) explains client error, and [BAM 720](#) explains Intentional Program Violations.

Definition All Programs

An **agency error** OI is caused by incorrect actions (including delayed or no action) by DHS or DIT staff or department processes. Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer errors occurred.

- Information was not shared between department divisions (services staff, Work First! agencies, etc.).
- Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

If unable to identify the type of OI, record it as an agency error.

OVERISSUANCE PERIOD

All Programs

OI Begin Date

FIP, SDA, CDC and FAP

The OI period begins the first month (or first pay period for CDC) when benefit issuance exceeds the amount allowed by policy, or 12 months before the date the OI was referred to the RS, whichever is later.

To determine the first month of the OI period for changes reported timely and not acted on, Bridges allows time for:

- The full standard of promptness (SOP) for change processing, per [BAM 220](#), and
- The full negative action suspense period. See [BAM 220](#), EFFECTIVE DATE OF CHANGE.

OI End Date The OI period ends the month (or pay period for CDC) before the benefit is corrected.

OVERISSUANCE AMOUNT

FIP, SDA, CDC and FAP

The amount of the OI is the benefit amount the group actually received minus the amount the group was eligible to receive. (BAM 705)

In this case the evidence is insufficient to determine the over-issuance type. The above policy identifies an unidentified type as an agency error. The policy also directs how to determine the first month of the over-issuance period. In this case it does not appear that the

policy requirements for determining the first month of the over-issuance period have been applied. October 29, 2009 was the date that Claimant's circumstances changed. The evidence does not show what day the Department was informed so the entire 10 day client reporting period is used, then the 15 day Standard of Promptness is added, and finally the 12 day negative action period is added. The 37th day after October 29, 2009 is December 5, 2009. The over-issuance period does NOT include November 2009.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In this case the facts of the case are both tragic and undisputed. Along with the request for hearing Claimant submitted documentation showing she was a high risk patient due to frequent seizures. The information states that Claimant was severely beaten at age 17 and the result is short and long term memory loss and frequent seizures. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

MEDICAID OVERVIEW

DEPARTMENT POLICY

MA Only

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

SSI-RELATED AND FIP-RELATED

The Medicaid program is comprised of several sub-programs (i.e., categories). One category is FIP recipients. Another category is SSI recipients. There are several other categories for persons not receiving FIP or SSI. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. Therefore, these categories are referred to as either FIP-related or SSI related.

To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled.

Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories.

CHOICE OF CATEGORY

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility for the least amount of excess income.

Note: Persons may receive both Medicare Savings Program benefits (BEM 165) and coverage under another MA category. See **“Medicare Savings Program”** below.

However, clients are not expected to know such things as:

- The eligibility for a FIP grant does not mean MA coverage must end,
- The LIF category is usually the most beneficial category for families because families who become ineligible for LIF may qualify for TMA or Special N/Support,
- The Healthy Kids categories are usually the next most beneficial categories for persons under age 19 and pregnant women, and
- The most beneficial category may change when a client's circumstances change.

Therefore, you must consider all the MA category options in order for the client's right of choice to be meaningful.

LOW INCOME FAMILY TERMINATION

You **must** determine if MA eligibility exists under any other category before terminating MA for LIF or FIP recipients. Commonly applicable policies are mentioned below.

FIP AND SSI TERMINATIONS

Most terminations of FIP or SSI benefits must include an evaluation of MA eligibility. See BEM 110 for FIP terminations and BEM 150 for SSI terminations.

MA-ONLY

TERMINATIONS

Consider eligibility under all other MA-only categories before terminating benefits under a specific category. In addition, when Group 1 eligibility does not exist but all eligibility factors except income are met for a Group 2 category, activate deductible status. See BEM 545. (BEM 105)

In this case it appears that the Department did consider other FIP related MA categories and found Claimant was not eligible for any. However, the medical information in the record indicates that Claimant must also be evaluated for SSI categories before her LIF can be closed. The Department did not evaluate Claimant for eligibility as disabled and should not have closed her LIF MA case until that evaluation was completed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT over-issue Claimant \$ [REDACTED] of Family Independence Program (FIP) benefits during November and December 2009 which should be collected.

Additionally the Department of Human Services DID NOT properly close Claimant's Medical Assistance (MA) case.

It is ORDERED that the actions of the Department of Human Services, in both matters, are REVERSED.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 16, 2010

Date Mailed: June 18, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

GFH/alc

cc:

