

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201048114
Issue No.: 2026
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 15, 2010
Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on September 15, 2010. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether Claimant timely requested a hearing concerning a denial of Medical Assistance (MA) benefits.
2. Whether DHS properly determined Claimant's request for MA benefits.

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 and her spouse were ongoing MA recipients.
2. Claimant and her spouse received ongoing Medicaid from 3/2010 through the present.
3. DHS mailed Claimant a Notice of Case Action (NCA) dated 6/30/10 terminating Claimant's spouse's MA benefits, however, the NCA stated that the spouse would receive Medicaid on a different case.

4. DHS took no other adverse action on Claimant or her spouse's MA benefits.
5. On 7/14/10, Claimant requested a hearing concerning an unspecified adverse action on her and her spouse's MA benefits.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) 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).

BAM 600 covers the DHS policy for administrative hearings including deadlines for clients to file hearing requests. Clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 at 4.

Claimant contends she requested a hearing concerning her and her spouse's MA benefits in 2/2010. DHS testified no such hearing request was received. DHS further testified concerning their procedures for receiving hearing requests and demonstrated that the procedure is reliable. Claimant stated she faxed and mailed the hearing request but failed to produce verification of either the faxing or the mailing.

Claimant would have received the Hearing Summary prior to the hearing. The Hearing Summary clearly framed the issue as one of timeliness of Claimant's hearing request. Claimant should have known to bring evidence of her hearing request to the hearing. Claimant failed to bring a copy of the hearing request to the hearing and testified that she is unable to provide a fax transmission report because she does not have a printer. Claimant was given additional time after the hearing to submit a copy of her hearing request but failed to submit a copy.

Claimant testified sincerely concerning requesting a hearing in 2/2010 but was very emotional and defensive about questions which sought to verify that a hearing was requested. Though the undersigned tends to believe Claimant wanted to request a hearing, the undersigned has doubts that Claimant properly requested one. Claimant may have mailed a hearing request to the wrong address. Claimant may have sent documents she believed requested a hearing but may have failed to specifically indicate that she wanted a hearing. Claimant may have attempted to send the fax but was not successful in doing so. Without supporting documents, the undersigned is not inclined to find that Claimant properly requested a hearing in 2/2010. Accordingly, it is found that Claimant did not request a hearing in 2/2010.

Claimant's dispute in 2/2010 seemed to be about FAP benefits. Claimant can always reapply for FAP benefits at any time whether she requests a hearing concerning that issue, or not. Claimant is encouraged to reapply for FAP benefits immediately if she still finds herself in need.

It is not disputed that Claimant submitted a hearing request on 7/14/10. Claimant's 7/14/10 request stated a hearing was requested for [REDACTED] for continued Medicaid for [REDACTED]. We are not receiving Food Stamps were told no July med per [REDACTED].” The undersigned interprets Claimant's request to refer to a dispute concerning her Claimant's and [REDACTED] eligibility for MA benefits beginning 7/2010 and not an issue concerning Claimant's lack of FAP benefits. Claimant did not provide any testimony concerning any DHS decision denying her FAP benefits. Claimant's 7/14/10 request is one appropriate for administrative consideration for benefits received in the 90 days prior to the hearing request.

A Notice of Case Action (NCA) dated 6/30/10 indicated that [REDACTED] Medicaid would be terminated; the NCA clarified that [REDACTED] would be eligible for MA benefits on another case.

DHS provided Eligibility Summaries dated 10/11/10 which verified that [REDACTED] and [REDACTED] were eligible for ongoing Medicaid since 3/2010 through at least 10/2010. This contradicted the testimony of both parties who indicated that Claimant and her spouse were eligible for Medicaid subject to a monthly deductible. Claimant and her spouse were receiving a deductible as recently as 2/2010 but have received ongoing Medicaid since.

Based on the income amounts provided, the undersigned has doubts concerning the accuracy of the eligibility determinations made by DHS. However, as DHS and Claimant did not submit any documentation verifying that Claimant and her spouse received MA benefits less than ongoing Medicaid, the undersigned can only find that Claimant and her spouse received ongoing Medicaid since 3/2010.

Though Claimant indicated that she requested a hearing in response to a statement made by her specialist concerning termination of her MA benefits, no such termination occurred. Claimant and her spouse are and have been receiving MA benefits for an eligibility which cannot be improved, ongoing Medicaid. Accordingly, Claimant's hearing request from 7/14/10 is dismissed as Claimant has not presented an adverse DHS action concerning her or her spouse's MA benefits.

If the undersigned's interpretation of DHS regulations is correct, DHS may reduce Claimant and her spouse's MA benefits in the future due to excess income. As this decision is limited to the DHS actions in the 90 days preceding Claimant's hearing

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request dated 7/14/10, Claimant is entitled to request a hearing for any future benefit reductions after receiving notice of the reduction.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant has not presented a disputed issue which related to a loss in benefits. Claimant's hearing request is DISMISSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/09/2010

Date Mailed: 11/09/2010

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.

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