

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. 201052565
Issue No. 2003; 3014
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: November 9, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, an in-person hearing was held on Tuesday, November 9, 2010. The claimant personally appeared and testified with her attorney, [REDACTED]

ISSUE

Did the department properly determine that the claimant was not eligible for Medical Assistance (MA) under the Caretaker Relative category?

FINDINGS OF FACT

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

1. The claimant was eligible for MA under the Caretaker Relative category because she had an eligible child who was under the age of 18.
2. On May 14, 2010, the claimant reported her 18 year-old son would graduate from home schooling in June 2010. (Department Exhibit 1)
3. On May 14, 2010, the department caseworker sent the claimant a notice that her case would close because the claimant is not aged, blind, disabled, under 21, pregnant, or parent/caretaker relative of a dependent child, but she would be entitled to receive benefits through June 30, 2010. (Department Exhibit 9-12)

4. Subsequently, the department caseworker generated a medical verification forms for the claimant since she indicated that she was disabled.

5. Subsequently, the department caseworker opened an Ad-Care Medicaid case for the claimant. (Department Exhibit 13-14)

6. On May 19, 2010, the department case worker sent the claimant a notice that she was approved for Ad-Care. (Department Exhibit 5-8)

7. On June 21, 2010, another department caseworker discovered that the claimant's Ad-Care case had been opened in error when the department caseworker received the Medical Review Team (MRT) packet back on June 17, 2010 indicating that the claimant was not eligible for disability Medicaid.

8. On June 21, 2010, the department case worker sent the claimant a notice that her MA case was closed with an effective closure date of July 3, 2010. (Department Exhibit 9-12)

9. On June 25, 2010, the claimant requested a hearing on her FAP and MA, but no negative action was taken on the claimant's FAP.

10. During the hearing, the claimant agreed that no negative action had been taken on her FAP and agreed that her FAP benefits were the same and that FAP is not an issue in this case.

11. During the hearing, the claimant's attorney cited the policy BPB 2010-012, Interim Policy Bulletin Ex Parte Reviews, that became effective July 1, 2010 that stated that effective July 1, 2010 that individuals who were no longer eligible for Medicaid under their current MA category would be reviewed for eligibility in all other Medicaid categories before the individual's current Medicaid coverage ends and that since the claimant was eligible for MA until July 3, 2010 she should have been covered under this current policy and her Medicaid case should not have closed on July 3, 2010.

CONCLUSIONS OF LAW

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

EFFECTIVE July 1, 2010

SUBJECT Ex Parte Reviews of Medicaid (MA) Closures

All MA Categories

Effective July 1, 2010, individuals who are no longer eligible for Medicaid under their current MA category will be reviewed for eligibility in all other Medicaid categories before the individual's current Medicaid coverage ends. The review will be ex parte (see definition with this bulletin) unless information needed to determine eligibility in another category is required from the individual. The ex parte review will be based on the information currently found in the individual's case record and information available to the department. If the review determines there is no eligibility in another category, the current coverage will be allowed to end. If the individual is found eligible for MA coverage in another category, the case will transfer to the new category and notice of continued eligibility will be sent to the individual.

In the instant case, the claimant was a recipient of MA benefits under the Caretaker Relative category. The claimant reported on May 14, 2010 that her last eligible child would be graduating from high school in June 2010. The department correctly processed the claimant's case on May 14, 2010, but when she generated the medical verification required for disability she incorrectly opened the claimant for an MA Ad-Care case.

Another caseworker correctly determined that the claimant was not eligible for MA Ad-Care when her MART packet was returned on June 17, 2010 indicating that the claimant was not eligible for Medicaid disability. As a result, the department caseworker sent the claimant a denial notice on June 21, 2010 that her case was opened in error and that she was not eligible for MA Ad-Care and her case would close July 3, 2010.

Effective July 1, 2010, there was an interim policy bulletin ex parte review that prevented MA cases from closing until all other Medicaid categories had been reviewed for eligibility. Because the claimant's case did not close until July 3, 2010, she was eligible for her MA case to continue as a result of the new policy effective July 1, 2010 even though her case had continued to be open due to department error.

Therefore, the Administrative Law Judge must find that the department has not established that it was acting in compliance with department policy when a determination was made that the claimant was not eligible for MA benefits as a result of the ex parte reviews of MA closures effective July 1, 2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not correctly determine that the claimant was not eligible for her MA case to continue under the new policy of ex parte reviews of MA closures effective July 1, 2010.

Accordingly, the department's decision is **REVERSED**. The department is ordered to reopen the claimant's MA case based on the July 1, 2010 policy of ex parte reviews of MA closures.

/s/
Carmen G. Fahie
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 24, 2011

Date Mailed: January 24, 2011

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.

CGF / vc

cc:

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