

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

IN THE MATTER OF:



Reg. No: 2010-28623
Issue No: 2015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 3, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 August 3, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly cancel claimant's Medicaid coverage for claimant's one year old son and failed to determine eligibility for Medicaid under Group 2?

FINDINGS OF FACT

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

- (1) On January 7, 2010, the department caseworker sent claimant notice stating that the Medicaid coverage for her 1 year old son was going to end as of January 31, 2010, because he was turning 1 years old.
- (2) Claimant contacted the specialist on January 12, 2010, with questions about the notice.
- (3) The specialist returned the call to the client on January 12, 2010, and tried to explain that because her son was turning 1, that his Medicaid coverage would end and she needed to submit current income for the last 30 days for the household in order to determine continued eligibility.

- (4) Medicaid coverage was still on for the client and spouse under the spend-down medical and for the other minor children under Group 2 Medical Assistance.
- (5) On January 15, 2010, claimant filed a request for a hearing to contest the department's negative action.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states in BEM, Item 129, that healthy kids under age 1 is an FIP related Group 1 MA category. MA is available to a child under age 1 whose fiscal groups net income does not exceed 185% of the poverty level. All eligibility factors must be met in the calendar month being tested. However, only certain eligibility factors apply before redetermination. If the month being tested is an L/H month and eligibility exists, go to BEM, Item 546, to determine the post eligibility patient pay amount. Once eligible, a recipient's eligibility continues until redetermination unless the child reaches age 19, moves out of the state, is ineligible due to institutional status (BEM, Item 265), or dies. The department is counseled to continue using HK1 income eligibility every determination when a child is eligible for and receiving MA under this category and is an inpatient in a hospital or a long term and attain age 1 while in the facility. An ex parte review is required before Medicaid closures when there is an actual or anticipated change unless the change would result in closure due to ineligibility for all Medicaid. When possible an ex parte review should begin at least 90 before the anticipated change and expected to result in case closure. The review includes consideration of all MA categories. BAM, Item 115 and 220.

The BPG glossary defines ex parte review as a determination made by the department without the involvement of the recipient, the recipient's parents, spouse, authorized representative, guardian or other members of the recipient's household. It is based on a review of all materials available to the specialist that may be found in the recipient's current Medicaid eligibility case file.

In the instant case, claimant testified on the record that her case was not eligible for redetermination until April 2010. The record was left open so that the department could provide the Administrative Law Judge with a budget and with additional information, however, the department did not fax the information to the Administrative Law Judge and as of August 18, 2010, the department did not provide this Administrative Law Judge with that additional medical information.

BEM, Item 131, p.1, indicates that other healthy kids is an FIP related Group 1 MA category. MA is available to a person who is under age 19 when net income does not exceed 150% of the poverty level. A person, age 16-18 years old, with net income between 105 and 150% of the poverty level is a Healthy Kids expansion (HKE) recipient. All eligibility factors must be met in the calendar month being tested. However, only certain eligibility factors apply before redetermination. If the month being tested is an L/H month and eligibility exists, go to BEM, Item 546, to determine the post eligibility patient pay amount. Presumptive eligibility is determined based on income reported at the time of application. Presumptive eligibility will be determined for child whose OHK/HKE application is filed on-line by a trained qualified entity. Children with presumptive eligibility receive the full benefits of Healthy Kids Medicaid. Presumptive eligibility is limited to one period of eligibility during any consecutive 12 month period. An individual whose income exceeds 150% of the poverty level may be eligible for MiChild. See BEM, Item 531, for information regarding the referral process.

If the department determines that a person age 19 is not eligible for Healthy Kids due to excess income, the department is to issue a DHS- 45, DHS-2 DCH-MiChild FTW transmittal or LOA2 equivalent and send or fax legible copies of the following to MiChild: DHS-1171 or DCH 03 73d, Healthy Kids budget sheet, any other Healthy Kids eligibility information, and any Healthy Kids verifications. The department is to refer to MiChild promptly to reduce the possibility of a lapse in coverage. MiChild eligibility begins the first day of the month following the approval. When MiChild approval occurs after the MiChild enrollment cutoff date, eligibility begins the 2nd month after approval. MiChild is not retroactive (BEM, Item 531, p. 2).

The department is required to do a future month budget at redetermination. Financial eligibility is only considered an initial eligibility and annual redetermination. Income and income limit changes are not considered until the next redetermination.

This Administrative Law Judge finds that according to department policy, claimant's income and income limit changes should not have been considered until the next redetermination [REDACTED] and therefore should have remained eligible to receive Healthy Kids Medical Assistance even though he did turn age 1. There is no evidence in this case that was presented by the department which indicates that the department did a referral to MiChild and prevented a lapse in Medical Assistance eligibility as is required by policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department has failed to provide sufficient evidence that it was acting in compliance with department policy when it proposed to cancel claimant's Healthy Kids Medical benefits before the redetermination period of April 2010.

Accordingly, the department's decision is REVERSED. The department shall reinstate claimant's Medical Assistance benefits and shall conduct the medical review in compliance with department policy. The department shall make an assessment of claimant's eligibility for the months of January, February, March and April for Healthy Kids, and if claimant is not eligible for Healthy Kids they will make an immediate referral to MiChild to prevent the lapse of benefits.

Landis

/s/

Y. Lain

Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 20, 2010

Date Mailed: August 23, 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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