

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

██████████
██
██

Reg. No.: 2013-26075
Issue No.: 2018
Case No.: ██████████
Hearing Date: May 20, 2013
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on May 20, 2013, from Detroit, Michigan. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

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

1. Claimant applied for benefits received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input checked="" type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On February 1, 2013, the Department
 denied Claimant's application closed Claimant's case
due to her not being under age 21, pregnant or a caretaker of a minor child, and not
over 65, blind or disabled.
3. On January 3, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On January 14, 2013, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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.

According to BEM 150, when Supplemental Security Income (SSI) benefits stop, the Department is to evaluate the reason based on the Social Security Administration's (SSA) negative action code and either: close MA-SSI if SSI stopped for a reason that prevents continued MA eligibility (for example, death, moved out of state) or transfer the case to the SSI Termination (SSIT) type of assistance. BEM 150 (June 2011), p.5.

An *ex parte* review (see glossary) is required before MA 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 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220. BEM 150, p. 5. A redetermination date is set for the second month after transfer to SSIT to allow for an *ex parte* review. BEM 150, p. 5. The Department is to initiate a redetermination by sending the client a packet which includes an assistance application and a verification checklist (VCL). The Department then processes the application, initiates interview and intake and determines eligibility after sending out the appropriate disability forms and documenting all factors including disability and blindness. BEM 150, p.6. If the client is not eligible for any type of MA, the Department sends a negative action notice. BEM 150, p. 6.

In this case, Claimant was an ongoing recipient of MA under a SSI related MA program. In October 2012, Claimant began receiving Retirement, Survivors, Disability Insurance (RSDI) as opposed to SSI. Claimant verified this information but neither Claimant nor

the Department had any information on what triggered the change in federal benefits. Claimant testified that she is still disabled and there was no determination by the SSA that she was no longer disabled. The Department did not refute this testimony. On January 3, 2013, the Department sent Claimant a Notice of Case Action informing her that the Department intended to close her MA case effective February 1, 2013 because she was not under age 21, pregnant or a caretaker of a minor child, and not over 65, blind or disabled. (Exhibit 2). Claimant requested a hearing to dispute the closure, stating that she was disabled and eligible for MA.

A further review of the eligibility summary provided by the Department establishes that Claimant's case was transferred to the SSIT type of assistance and that she had ongoing and active MA coverage under the SSIT program for the period of November 1, 2012 through January 31, 2013. BEM 150, p.5;(Exhibit 1). The eligibility summary also indicates that effective February 1, 2013, Claimant's SSIT case closed. (Exhibit 1). Although the Department did not specifically state that an ex parte review of Claimant's MA eligibility was conducted after her SSI benefits were terminated, the Department did testify that Claimant was sent an assistance application on an unverified date and that on January 25, 2013, a VCL was sent with a due date of February 5, 2013, as required. BEM 150, p. 6; (Exhibit 4). However, the Department did not present any evidence that an initial interview was conducted with Claimant or that the Department sent Claimant the appropriate disability forms to determine her eligibility for a different MA program. BEM 150, p.6. According to BEM 260, a person eligible for RSDI benefits based on his disability or blindness meets the disability or blindness criteria. Disability or blindness starts from the RSDI disability onset date established by the SSA. This includes a person whose entire RSDI benefit is being withheld for recoupment. No other evidence is required. BEM 260 (July 2012), p. 1.

In addition, Claimant's MA case closed effective February 1, 2013, which was before the February 5, 2013 due date on the VCL. (Exhibit 1; Exhibit 4). There was no evidence presented to establish that Claimant refused to provide verification, nor did the time period given to provide the verification elapse prior to Claimant's MA case closure. BAM 130 (May 2012), p.1. As such, prior to closing Claimant's MA case, the Department should have completed the ex parte review process to determine Claimant's eligibility for MA, taking into account her eligibility under the MA-P program, discussed in BEM 260.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly. did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's MA case effective February 1, 2013;
2. Complete an ex parte review to determine Claimant's eligibility for any other MA program in accordance with Department policy and consistent with this Hearing Decision;
3. Begin issuing retroactive MA coverage to Claimant for any MA coverage that she was entitled to receive but did not from February 1, 2013 ongoing in accordance with Department policy; and
4. Notify Claimant of its decision in writing in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 3, 2013

Date Mailed: June 3, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant:
 - failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ZB/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]