

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

IN THE MATTER OF:



Reg. No.: 201316227
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: May 29, 2013
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 29, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

Due to a failure to comply with the verification requirements, did the Department 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, including testimony of witnesses, finds as material fact:

1. Claimant was receiving MA Other Healthy Kids (OHK).
2. On October 16, 2012, the Department mailed Claimant a Healthy Kids Redetermination Notice (DHS-0034).
3. Claimant was required to submit the requested verification by November 1, 2012.
4. On November 19, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's MA-OHK case for failure to submit verification in a timely manner.
5. On November 29, 2012, Claimant filed a hearing request, protesting the closure.

CONCLUSIONS OF LAW

Department policies are found in the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Department must periodically redetermine an individual's eligibility for active programs. BAM 210. The redetermination process includes thorough review of all eligibility factors. BAM 210. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210. A complete redetermination is required at least every 12 months. BAM 210. However, the client must complete a DHS-1171, Assistance Application, to request a program that is not active at the time of redetermination. BAM 210. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications; see BAM 130, Obtaining Verification. BAM 210.

An *ex parte* review (see glossary) 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 calendar 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. BAM 210.

For purposes of MA, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210. Also, the redetermination month is 12 months from the date the most recent complete application was submitted. BAM 210. In an MA-Group 2 Persons Under 21 case, if a member will reach age 21 before the month the case is scheduled to be redetermined, an *ex parte* review (see glossary) should begin at least 90 days prior to the date the member turns 21; see BAM 220. BAM 210.

For all programs, a redetermination/review packet is considered complete when **all** of the sections of the redetermination form including the signature section are completed. BAM 210. When a complete packet is received, the Department worker shall record the receipt in Bridges as soon as administratively possible. BAM 210. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210.

For MA only, benefits are not automatically terminated for failure to record receipt of the redetermination packet. BAM 210. In order to receive uninterrupted benefits, (benefits available on their scheduled issuance date) the client must file the redetermination through MI Bridges or file either a DHS-1010, Redetermination, DHS- 171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the

redetermination month. **Exception:** If the client's redetermination materials are mailed late, the timely filing date is 17 days **after** the materials are mailed. **Example:** Madison's FAP redetermination is due in July. The redetermination materials are mailed July 6th with a due date of July 16th on the DHS-3503. Madison returns all necessary items needed to complete her review on July 20th. Her filing date is timely because her review materials were mailed late. Her benefits must be available to her on the scheduled issuance date. BAM 210.

For MA, verifications are due the same date as the redetermination/review interview. BAM 210. When an interview is not required, verifications are due the date the packet is due. BAM 210. Bridges allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. If the 10th day falls on a weekend or holiday, the verification would not be due until the next business day. BAM 210.

Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. This allows time to process the redetermination before the end of the redetermination month. BAM 210.

Here, the Department closed Claimant's MA-OHK benefits due to failure to return the redetermination form. Claimant does not dispute failing to do so. Claimant testified that he was not familiar with the Department procedures with regard to updating his residence address and providing timely verifications.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. This Administrative Law Judge finds the Department's evidence to be persuasive and the Department representative's testimony is more credible. Claimant has failed to make a reasonable effort to provide all requested verifications (i.e. the MA-OHK redetermination packet) within the required time period. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the Department properly closed Claimant's MA OHK case due to failure to return the redetermination form.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly closed Claimant's case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly.

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 29, 2013

Date Mailed: May 29, 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.

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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