

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

IN THE MATTER OF:

[REDACTED]

New Reg. No.: 201341956
Old Reg. No.: 20139090, 201257379
Issue No.: 2000
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County DHS: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 24.287(1) and 1993 AACS R 400.919 upon the request of the Claimant.

ISSUE

Whether Claimants are eligible to receive Refugee Assistance Program Medical beyond the 8 months from their arrival in the U.S. or grant of asylum?

FINDINGS OF FACTS

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

1. On [REDACTED] Administrative Law Judge (ALJ) , Robert J. Chavez, issued a Hearing Decision in which the ALJ accepted a settlement agreement between the Department and the Claimant; and ordered the Department to: "Reinstate Claimant's and Claimant's wife's RAP medical, pending an MA-P determination."
2. The Michigan Administrative Hearing System (MAHS) for the Department of Human Services received the Department's timely request for Reconsideration.
3. MAHS granted the Request for Reconsideration.
4. Findings of Fact 1-3 from the Hearing Decision mailed on [REDACTED] are adopted as my Findings as Fact.

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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies can be found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Conclusions of Law from the Hearing Decision mailed on October 16, 2012, are adopted as my Conclusions of Law.

Additionally, the Department determined that Claimant and his wife no longer met the eligible criteria for Refugee Assistance Program Medical (RAPM) and closed the RAPM case. During the hearing the assigned Administrative Law Judge (ALJ) asked if the local office completed an ex parte review of Claimant and his wife's MA eligibility before closing Claimant's RAPM case. The local office representative testified that she did not know if this had been done even though the Hearing Summary stated otherwise. Since the local office representative could not establish that an ex parte review had been completed, she agreed to reinstate Claimant's RAPM case, pending a Medical Assistance based on Disability (MA-P) determination. Based on the settlement agreement, the assigned ALJ Ordered the Department to reinstate Claimant's and his wife's RAPM pending an MA-P determination.

An ex parte review (see Glossary) is required before a Medicaid closure 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 all consideration of all MA categories. Bridges Eligibility Manual (BEM) 630. An ex parte review is 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. (Bridges Glossary)

In this case, the Department did not have the authority to extend RAPM coverage beyond the 8 months from the date of Claimant's arrival in the U.S. or grant of asylum. Department Policy states clearly that Refugee Medical Assistance is available **only** during the eight months immediately following the refugee's date of entry into the U.S. or date asylum is granted. Month one is the month containing date of entry or date of adjustment to refugee status. (BEM 630) The federal regulations at 45 CFR 400.100 (b) provides that a refugee may be eligible for medical assistance under this subpart during a period of time to be determined by the Director in accordance with 45 CFR 400.211. Federal funding is available for refugee medical assistance during a period of time determined by the Director in accordance with 400.211. The federal regulations at 45 CFR 400.211 provides the method to be used by the Director to determine the time

period during which RAP may be received and paid for by the federal government. The time period is currently a maximum of 8 months from the refugee's arrival in the U.S. or grant of asylum. The benefit time limit is calculated each year, and if it is changed, the new benefit time limits are published in the Federal Register.

The federal regulations at 45 CFR 400.93(b) requires the state agency responsible for Medicaid determinations to follow the same Medicaid eligibility regulations in 42 CFR part 435, and the hearing regulations in part 431. The federal regulations do not allow Medicaid coverage beyond the 8 month time limit, and the failure to complete an ex parte review before the 8 month time period would not result in a continuation of RAPM until eligibility is determined for all other Medicaid categories, including MA-P. However, it is possible to complete the ex parte review after the expiration of the 8-month time limit and find the person eligible for Medicaid in an other Medicaid category. That non-RAP eligibility could be made retroactive to the end of the 8-month RAP benefit period.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides Claimants are not eligible to receive Refugee Assistance Program Medical beyond the 8 months from their arrival in the U.S. or grant of asylum.

IT IS THEREFORE ORDERED:

1. The Settlement Order issued by ALJ Chavez on [REDACTED] is **REVERSED**.
2. The Department shall complete an ex parte review of Claimants' eligibility for Medicaid in another Medicaid category if it has not already done so, in accordance with the applicable law and policy.
3. Claimants are not eligible to have their RAPM case reinstated beyond the 8 months from their arrival in the U.S. or grant of asylum.

/s/
Marya A. Nelson-Davis
Administrative Law Judge Manager
for Maura Corrigan, Director
Department of Human Services

Date Signed: 04/26/2013

Date Mailed: 04/30/2013

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NOTICE: The law provides that within 30 days of receipt of the above Reconsideration Decision and Order, the claimant may appeal it to the circuit court for the county in which he/she lives.

MAND/kl

cc:

