

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

**IN THE MATTER OF:**

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Reg. No.: 2013-25685  
Issue No.: 2018  
Case No.: ██████████  
Hearing Date: July 3, 2013  
County: Macomb (20)

**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 July 3, 2013, from Detroit, Michigan. Claimant and ██████████ Authorized Hearing Representative, appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████ Eligibility Specialist.

**ISSUE**

Did the Department properly process 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 an ongoing recipient of MA.
2. In December 2012, Claimant reported to the Department that she was no longer employed.
3. On January 10, 2013, the Department sent Claimant a Notice of Case Action informing her that effective February 1, 2013, her MA case under the Freedom to Work (FTW) program would be closed.
4. On January 22, 2013, Claimant filed a hearing request, disputing the Department's actions

## **CONCLUSIONS OF LAW**

Department policies are found 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.

The Freedom to Work (FTW) is a SSI-related Group 1 MA category and is available to a disabled client age 16 through 64 who has earned income. MCL 400.106a(2)(a)(b); BEM 174 (October 2012), p. 1. In order to eligible under the FTW, certain non-financial factors must be considered. BEM 174 provides that the client must be MA eligible; must not access MA through a deductible; must be disabled under the standards of the Social Security Administration (except that employment, earnings, and substantial gainful activity is not considered in the determination); must be employed; and must meet all MA eligibility factors found in BEMs 220, 221, 223, 225, 257, 265, and 270. BEM 174, p.1.

In the present case, Claimant was an ongoing recipient of MA under the FTW program. On January 10, 2013, the Department sent Claimant a Notice of Case Action informing her that her FTW MA case would be closing effective February 1, 2013. (Exhibit 1). At the hearing, Claimant stated that she reported to the Department that she was no longer employed in December 2012. The Department testified that because Claimant was no longer earning income, she was not eligible to receive MA under the FTW program. BEM 174 (October 2012), p. 1.

On January 3, 2013, Claimant submitted a new application for State Disability Assistance (SDA) and MA, under a disability based program. The Department testified that the application was registered and processed. Medical documentation was sent to the Medical Review Team (MRT) to determine whether or not Claimant would be found disabled under policy and thus eligible for MA under a disability based MA program.

Claimant stated that she did not request a hearing disputing the closure of her FTW MA case, as she understood the actions of the Department; but rather, she requested a hearing to determine how she can get her MA coverage approved and raised a concern regarding the standard of promptness in the processing of her MA application.

At the hearing, the Department presented an eligibility summary establishing that as of the date of her hearing request, MA application was still pending and that the MRT had not yet made a decision as to Claimant's alleged disability. (Exhibit 2). This eligibility summary also confirms that Claimant's FTW MA case closed. (Exhibit 2).

Additionally, 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. BEM 174, p. 3. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. BEM 174, p. 3. The review includes consideration of all MA categories. BEM 111, p. 3; See BAM 115 and 220.

According to BAM 220, when the ex parte review shows that a recipient does have eligibility for Medicaid under another category, the Department is to change the coverage. When the ex parte review shows that a recipient may have continuing eligibility under another category, but there is not enough information in the case record to determine continued eligibility, the Department is to send a verification checklist (including disability determination forms as needed) to proceed with the ex parte review. If the client fails to provide requested verification or if a review of the information provided establishes that the recipient is not eligible under any MA category, send timely notice of Medicaid case closure. When the ex parte review suggests there is no potential eligibility under another MA category, the Department sends timely notice of Medicaid case closure. BAM 220 (November 2012), p. 14.

In this case, the Department testified that because the MRT had not yet made a determination regarding Claimant's disability and her application was still pending as of the date she requested a hearing on January 22, 2013, there was no negative action yet taken on Claimant's case by the Department. The Department testified that there was no decision made on Claimant's application and Claimant confirmed that she has not yet received a Notice of Case Action informing her of the Department's decision regarding her January 2013 MA application. Claimant however, should not have been required to submit an additional application for MA, without the Department first conducting an ex parte review, as discussed above.

At the hearing, it was not made clear by the Department as to whether or not an ex parte review was conducted prior to Claimant's FTW MA case closure. The Department was unable to establish if the pending MRT decision was due to the ex parte review or if it was due to the new application that was submitted prior to the FTW MA case closure. Claimant's MA case should not have closed prior to the Department determining her eligibility for ALL MA categories. The Department was to continue MA coverage until Claimant no longer met the eligibility requirements for any other type of MA program. BAM 220, p. 15.

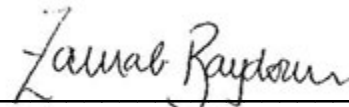
As such, the Department has failed to satisfy its burden in establishing that it acted in accordance with Department policy when it processed Claimant's MA case by terminating her FTW MA benefits prior to conducting an ex parte review.

**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 not in accordance with Department policy when it closed Claimant's MA case prior to conducting an ex parte review. Accordingly, the Department's actions are REVERSED.

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.



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

Date Signed: July 23, 2013

Date Mailed: July 23, 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.

ZB/cl

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