

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 2013-40514
Issue No.: 2006
Case No.: ██████████
Hearing Date: July 15, 2013
County: Oakland (3)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Family Independence Manager.

ISSUE

Did the Department properly determine Claimant's Medical Assistance (MA) benefits eligibility effective April 1, 2013, ongoing?

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 was an ongoing recipient of MA benefits. See Exhibit 1.
2. On February 27, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA benefits for Healthy Kids for Pregnant Women would close effective April 1, 2013, ongoing. Exhibit 1.
3. On February 27, 2013, the Department sent Claimant a Verification Checklist ("VCI") to complete Claimant's ex parte review of her continued MA benefits and the VCL was due by March 11, 2013. See Exhibit 1.

4. On March 6, 2013, Claimant submitted the requested verifications.
5. On April 10, 2013, Claimant filed a hearing request, protesting her MA benefits. Exhibit 1.
6. On April 16, 2013, the Department sent Claimant a Notice of Case Action notifying her that her child's MA benefits were approved effective April 1, 2013, ongoing. Exhibit 1.
7. On April 16, 2013, the Notice of Case Action also notified Claimant that her MA benefits were closed effective April 1, 2013, ongoing, based on her failure to comply with verification requirements. Exhibit 1.
8. In May 2013, the Department approved Claimant for MA benefits with a \$320 deductible effective April 1, 2013, ongoing. See Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained 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 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.

As a preliminary matter, Claimant is not disputing her child's MA benefits. Claimant's child has been receiving MA benefits effective April 1, 2013, ongoing. See Exhibit 1. Claimant is only disputing her MA benefits effective April 1, 2013, ongoing.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification it requests. BAM 130 (May 2012), p. 5. The Department sends a notice of case action when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 6. Only adequate notice is required for an application denial. BAM 130, p. 6. Timely notice is required to reduce or terminate benefits. BAM 130, p. 6.

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 105 (October 2012), p. 4. When possible, an *ex parte* review should begin at least 90 days before the anticipated change is expected to result in case closure. BEM 105, p. 4. The review includes consideration of all MA categories. BEM 105, p. 4.

In this case, Claimant was an ongoing recipient of MA benefits. See Exhibit 1. On February 27, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA benefits for Healthy Kids for Pregnant Women would close effective April 1, 2013, ongoing. Exhibit 1. It should be noted that the Department properly closed Claimant's MA benefits for Healthy Kids for Pregnant Women because her MA coverage ends due to her two months of post-partum.

Additionally, on February 27, 2013, the Department sent Claimant a VCL to complete Claimant's ex parte review of her continued MA benefits and the VCL was due by March 11, 2013. See Exhibit 1. At the hearing, the Department testified that Claimant failed to submit the requested verifications until after the due date. Thus, on April 16, 2013, the Department sent Claimant a Notice of Case Action notifying Claimant that her MA benefits were closed effective April 1, 2013, ongoing, based on her failure to comply with verification requirements. Exhibit 1.

Claimant testified that her husband submitted the requested verifications at the DHS office in early March of 2013. The Department obtained the logbook at the hearing and determined that Claimant submitted the bank statements and pay stubs on March 6, 2013. Based on this information, the Department should have not sent Claimant the April 16, 2013 Notice of Case Action notifying her that MA benefits were closed effective April 1, 2013, ongoing because Claimant did comply with the verification requirements. Moreover, the Department failed to send timely notice that Claimant's MA benefits were terminated. BAM 130, p. 6. The Notice of Case Action is dated April 16, 2013 regarding the termination of benefits effective April 1, 2013, ongoing. This is not timely notice.

Nevertheless, it was discovered subsequent to Claimant's hearing request that the Department approved Claimant for MA benefits with a \$320 deductible effective April 1, 2013, ongoing. See Exhibit 1. This action was certified on May 7, 2013. See Exhibit 1. Because this action was taken subsequent to Claimant's hearing request, Claimant will have to request another hearing to dispute the deductible amount. See BAM 600 (February 2013), p. 4. Even though the Department did not follow appropriate ex parte review procedures, ultimately, the Department corrected its error by approving her for MA benefits with a deductible. BEM 105, p. 4. Thus, the Department properly determined Claimant's MA eligibility effective April 1, 2013, ongoing, in accordance with Department policy.

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 properly determined Claimant's MA eligibility effective April 1, 2013, ongoing, in accordance with Department policy.

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



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 30, 2013

Date Mailed: July 30, 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

EJF/cl

cc: [REDACTED]
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