

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

IN THE MATTER OF:



Reg. No.: 201333433
Issue No.: 2018
Case No.: [REDACTED]
Hearing Date: August 15, 2013
County: Jackson

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 August 15, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Authorized Hearing Representative (AHR)), [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Family Independence Manager) and [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly deny Claimant's application for Medical Assistance (MA)?

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 for Medical Assistance (MA).
2. On February 5, 2013, the Department denied Claimant's application because Claimant did not meet the caretaker relative criteria as set forth in BEM 135.
3. On February 5, 2013, the Department sent Claimant's Authorized Hearing Representative (AHR) notice of the denial.
4. On February 12, 2013, Claimant filed a hearing request, protesting the denial of the application.

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.

Here, Claimant submitted an Assistance Application (DHS-1171) seeking MA and Retroactive MA for himself, his spouse and their 4 children. Claimant also submitted a Retroactive Medicaid Application (DHS-3243) seeking coverage for October and November 2011. One of the 4 children (██████████) was 19 years old at the time the applications were submitted. The Department denied the Retroactive Medicaid Application for Claimant because he did not meet the caretaker relative criteria under BEM 135. Following the denial, but prior to the hearing, the Department forwarded an email to the Medicaid Policy Unit for an opinion. This email indicated that "retro MA was only being requested for Mr. ██████████ and ██████████ as indicated on the DHS 3243." This email did not mention the DHS-1171.

The MA Group 2 Caretaker Relatives is a FIP-related Group 2 MA category. BEM 135. MA is available to parents and other caretaker relatives who meet the eligibility factors in BEM 135. All eligibility factors must be met in the calendar month being tested. BEM 135.

A caretaker relative is a person who meets all of the following requirements:

- Except for temporary absences, the person lives with a dependent child. Use "CARETAKER RELATIVE NONFINANCIAL TEMPORARY ABSENCE" below. Dependent child is defined later in this item.
- The person is:
 - The parent of the dependent child; **or**
 - The specified relative (other than a parent) who acts as parent for the dependent child. Specified relative is defined later in this item. Acts as parent means provides physical care and/or supervision.
- The person is not participating in a strike; and, if the person lives with his spouse, the spouse is not participating in a strike. Use the FIP striker policy in BEM 227.
- The MA eligibility factors in the following items must be met.
 - BEM 220, Residence.
 - BEM 221, Identity.
 - BEM 223, Social Security Numbers.
 - BEM 225, Citizenship/Alien Status.
 - BEM 255, Child Support.

- BEM 256, Spousal/Parental Support.
- BEM 257, Third Party Resource Liability.
- BEM 265, Institutional Status.
- BEM 270, Pursuit of Benefits.

When a dependent child lives with both parents, both parents may be caretaker relatives. BEM 135.

For MA only, Retro MA coverage is available back to the first day of the third calendar month prior to:

- The current application for FIP and MA applicants and persons applying to be added to the group.
- The most recent application (**not** redetermination) for FIP and MA recipients.
- For SSI, entitlement to SSI.
- For department wards; see BEM 117, DEPARTMENT WARDS, TITLE IV-E AND ADOPTION RECIPIENT, the date DHS received the court order for a department ward.
- For Title IV-E and special needs adoption assistance recipients; see BEM 117, DEPARTMENT WARDS, TITLE IV-E AND ADOPTION RECIPIENT, entitlement to title IV-E or special needs adoption assistance.

Exception: A person might be eligible for one, two or all three retro months, **even if not** currently eligible. The DHS-3243, Retroactive Medicaid Application, is used to apply for retro MA. Only one DHS-3243 is needed to apply for one, two or all three retro MA months. See RETRO MA APPLICATIONS in BAM 110. Do **not** get a DHS-3243 if the person is eligible under Healthy Kids Retro MA Eligibility Requirements. A separate determination of eligibility must be made for **each** of the three retro months. (See BAM 115 Standard retro MA eligibility requirements). BAM 115.

The Department contends that the denial was proper because Claimant, on his Retroactive Medicaid application under question #2, only identified himself and [REDACTED] as persons who had “unpaid medical expenses this month.” According to the Department, because Claimant’s other children “did not have unpaid medical expenses that month” and because [REDACTED] was 19 years old, Claimant did not meet the caretaker relative criteria. Claimant, on the other hand, contends that his DHS-1171 and DHS-3243 should have been read together and clearly indicate that Claimant had 4 children (including [REDACTED]) who resided with Claimant during the months in question. Claimant, through his AHR, further argues that the policies did not intend to exclude children as group members simply because they did not have unpaid medical expenses.

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. The parties do not disagree about the salient facts. This issue concerns the proper interpretation of Claimant's applications and applicable policy. Here, neither BAM 115 nor BEM 135 supports the Department's position. The definition of a caretaker relative is defined in BEM 135. Claimant clearly identified his 4 children on both the DHS-1171 and the DHS-3243. This Administrative Law Judge believes that the Department should have read the two applications together when processing Claimant's MA eligibility. Simply because Claimant indicated on the DHS-3243 that his children do not have unpaid medical expenses this month, it does not follow that he fails to meet the caretaker relative criteria. There was no evidence that Claimant was not a caretaker relative for the children listed on either the DHS-1171 or DHS-3242. There was no evidence in this record to support the Department's denial of the application based on BEM 135.

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 improperly denied Claimant's application for MA.

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 act properly.

Accordingly, the Department's MA decision is **REVERSED** for the reasons stated on the record and discussed above.

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

1. Initiate a reprocessing and recertification of Claimant's MA and Retro MA application dated January 17, 2012.

IT IS SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 20, 2013

Date Mailed: August 21, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

201333433/CAP

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAP/aca

cc:

