

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

IN THE MATTER OF:

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

Reg. No: 201334559
Issue No: 2009
Case No: ██████████
Hearing Date: August 22, 2013
Delta County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon a request for a hearing submitted by L & S Associates to the Department of Human Services (department) on March 11, 2013. After due notice, a telephone hearing was held on August 22, 2013. ██████████ a representative with ██████████, appeared by three-way conference call and provided testimony on Claimant's behalf. The department was represented by LeeAnn Freedy, an eligibility specialist with the department's Macomb County office.

ISSUE

Whether the department properly denied Claimant's October 26, 2012 application for Medicaid and Retroactive Medicaid benefits?

FINDINGS OF FACT

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

1. On August 7, 2012, Claimant submitted a filing form (DHS-1171-F) for Medical Assistance (MA) benefits, as well as Food Assistance Program (FAP) benefits, and Family Independence Program (FIP) benefits. In the filing form, Claimant lists no household members. (Department Exhibit 3)
2. On August 7, 2012, Claimant also submitted an assistance application (DHS-1171), for MA, FAP, and FIP benefits. In the application, Claimant lists ██████████ (no relation) and ██████████ as members of his household. In the application, Claimant also reports that he has no income and has unpaid medical expenses for services provided in the last three months. (Department Exhibit 4)

3. On September 4, 2012, the department interviewed Claimant, at which time Claimant confirmed that his household included members [REDACTED] and [REDACTED] (Department Exhibit 2)
4. On September 4, 2012, the department approved Claimant and Claimant's [REDACTED], for Low Income Family (LIF) Medicaid benefits and Food Assistance Program (FAP) benefits effective August 1, 2012, but denied Claimant's application for FIP benefits. (Department Exhibits 5, 7)
5. On October 26, 2012 [REDACTED] submitted an application for MA and retroactive MA benefits on Claimant's behalf. In the application, L & S Associates reported that Claimant had unpaid medical expenses for the month of July 2012. [REDACTED] further reported that Claimant's household included his three children [REDACTED], and [REDACTED]. In support of the application, L & S Associates submitted an Authorization to Represent form and an Authorization to Release of Information form, both signed by Claimant on July 27, 2012. In submitting the application, [REDACTED] requested that the department "process this application for FIP-related Medicaid as [Claimant] has dependent children." [REDACTED] further indicated that Claimant is claiming to be disabled and would like to be evaluated under SSI-related Medicaid policy. (Department Exhibit 6)
6. On October 26, 2012, the department approved Claimant's [REDACTED] and [REDACTED], to be added to Claimant's previously approved LIF Medicaid benefits. (Department Exhibit 7)
7. On December 11, 2012, the state Medical Review Team issued a decision concluding that Claimant was not disabled for purposes of the MA-Disabled/Blind or retro-MA programs. (Department Exhibit 10)
8. On December 17, 2012, the department mailed Claimant and [REDACTED] [REDACTED] a Notice of Case Action (DHS 1605) advising Claimant that Claimant's application for retroactive MA benefits for the month of July 2012 had been denied because a disability/determination had been made by the department that Claimant is not disabled. (Department Exhibit 11)
9. On March 11, 2013, the department received a hearing request submitted by [REDACTED] protesting the department's December 17, 2012 denial of Claimant's October 26, 2012 application for retroactive MA benefits for the month of July 2012. (Claimant Exhibit A)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Medical Assistance (MA) program was established by 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 (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. Another category is SSI recipients. There are several other categories for persons not receiving FIP or SSI. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. Therefore, these categories are referred to as either FIP-related or SSI-related.

To receive Medicaid under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive Medicaid under FIP-related categories.

Department policy further provides that retroactive MA coverage is available back to the first day of the third calendar month prior to the current application for MA benefits. BAM 115. To be eligible for a retro MA month, the person must: (i) meet all financial and nonfinancial eligibility factors in that month; and (ii) have an unpaid medical expense incurred during the month, or have been entitled to Medicare Part A. BAM 115.

In this case, at the time that L & S Associates submitted an application for MA and retroactive MA benefits on Claimant's behalf on October 26, 2012, seeking MA benefits for Claimant and his three children and retroactive MA for Claimant for July 2012, the department had *already approved* Claimant's own August 7, 2012 application for MA benefits for himself and his [REDACTED]. Accordingly, the department added Claimant's other two children identified in the October 26, 2012 application [REDACTED] and

██████████, to Claimant's previously approved LIF MA benefit program and processed Claimant's application for retroactive MA coverage for the month of July 2012. Thereafter, following the department's receipt of the state Medical Review Team's determination that Claimant was not disabled for purposes of the MA-Disabled/Blind or retro-MA programs, the department denied Claimant's October 26, 2012 application for retroactive MA benefits.

At the August 22, 2013 hearing in this matter, the department's representative, LeeAnn Fredy testified that, subsequent to the department's denial of Claimant's application, ██████████ submitted correspondence to the department in January 2013 asserting that the October 26, 2012 retroactive MA application also listed Claimant's three children and therefore should have been processed to also determine whether Claimant was eligible for MA as the parent/caretaker of minor children. (Department Exhibit 13) Ms. Fredy further testified that Claimant only applied for retroactive MA benefits for himself and not for his children inasmuch as Claimant only listed himself as having any unpaid medical expenses. Ms. Fredy further testified that the department had already approved Claimant's previously filed application for LIF-MA benefits for himself and his son, Trevor, and therefore added Claimant's two additional children listed in the October 26, 2012 application to Claimant's previously approved LIF-MA benefits program.

In response ██████████ a representative with ██████████, testified that the department should have processed the October 26, 2012 MA application to also determine whether Claimant was eligible for Group 2 Caretaker Relative MA benefits as the parent/caretaker of minor children. In support of his argument ██████████ cited BAM 105, which provides in relevant part that "[c]lients who qualify under more than one MA category have the right to choose the most beneficial category." ██████████ offered no testimony or evidence challenging the department's denial of Claimant's October 26, 2012 application for retroactive MA benefits based on a determination that he is not disabled.

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). Moreover, 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). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record, as well as relevant department policies. In doing so, this Administrative Law Judge notes that BAM 135 expressly indicates that the Group 2 Caretaker Relative MA program is a FIP-related Group 2 MA category available to parents and other caretaker relatives of a child who is a recipient of FIP benefits. This

Administrative Law Judge further notes that the department denied Claimant's August 7, 2012 application for FIP benefits and ██████████ did not apply for FIP assistance on Claimant's behalf in the October 26, 2012 application. Moreover, this Administrative Law Judge notes that the department had previously approved Claimant and one child for LIF-MA benefits pursuant to Claimant's August 7, 2012 application at the time that ██████████ an MA application on Claimant's behalf on October 26, 2012.

Consequently, this Administrative Law Judge finds that, based on the competent, material and substantial evidence presented during the August 22, 2013 hearing, the department acted in accordance with policy in denying Claimant's October 26, 2012 application for retroactive MA benefits for the reason that Claimant is not disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in denying Claimant's October 26, 2012 application for retroactive MA benefits for the reason that Claimant is not disabled. The department's actions in this regard are therefore **UPHELD**.

It is **SO ORDERED**.

/s/ _____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 08/30/2013

Date Mailed: 08/30/2013

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.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

A request for a rehearing or reconsideration must be submitted through the local DHS office or directly to MAHS by mail at:

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

SDS/hj

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]