

**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.: 2013-62916
Issue No.: 2006
Case No.: ██████████
Hearing Date: November 4, 2013
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on November 4, 2013, from Madison Heights, Michigan. Participants on behalf of Claimant included ██████████

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Participants on behalf of the Department of Human Services (Department) included
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██████████

ISSUE

Did the Department properly deny Claimant Medical Assistance (MA) coverage for January 2013 medical expenses?

FINDINGS OF FACT

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

1. On July 20, 2012, Claimant applied for MA coverage for her family, and she and her husband were approved for MA coverage under the Group 2 Caretaker Relative (G2C) program subject to a monthly \$976 deductible.

2. On April 4, 2013, the AHR submitted a Facility Admission Notice to the Department identifying hospital services rendered to Claimant's husband on ██████████
██████████.

3. On April 5, 2013, Claimant's AHR, acting as an authorized representative (AR), filed an MA application for Claimant's husband with a request for retroactive MA coverage to [REDACTED]
4. In the April 5, 2013, application, Claimant's husband identified self-employment income.
5. On April 11, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting by April 22, 2013, (1) 2012 tax returns, (2) all personal and business accounts for January 2013 to April 2013, (3) all earned and unearned income for January 2013 to April 2013, and (4) verification of checking account.
6. At the AHR's request, the Department agreed to extend the VCL due date to May 22, 2013.
7. On May 21, 2013, the Department sent Claimant a Notice of Case Action denying Claimant and her husband MA coverage for July 1, 2013, ongoing, because Claimant did not return verification of her checking account and because the deductible had not been met in at least one of the last three months.
8. On May 22, 2013, the Department activated Claimant's husband's deductible case for January 1, 2013, through January 31, 2013.
9. On May 25, 2013, the AHR received the Facility Admission Notice with eligibility marked as denied.
10. On August 1, 2013, the AHR requested a hearing requesting that the Department activate coverage for [REDACTED].

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Additionally, the AHR requested a hearing because the Department denied payment for medical services rendered to Claimant's husband in [REDACTED].

The Department's position was that, although Claimant's husband had been approved in July 2012 for ongoing MA coverage under the G2C program subject to a monthly

deductible, when it became aware that the approval was based on information contradicted by Claimant's husband's statements in his April 5, 2013, MA application, it needed to verify Claimant's husband's MA eligibility for [REDACTED].

In order for the Department to activate MA coverage under the G2C program, all eligibility factors, including financial eligibility factors, must be met in the calendar month being tested. BEM 135 (January 2011), pp. 1-2. The Department may close an active deductible case when countable assets exceed the asset limit or when the group fails to provide needed information or verification. BEM 545 (July 2011), p. 10. However, the Department must provide timely notice of the closure of an MA case or denial of MA benefits. See BAM 220 (July 2013), pp. 2-4.

In this case, when the Department became aware that Claimant and her husband owned a restaurant and had self-employment income and a company checking account that had not been previously reported, it sent Claimant and the AHR a Verification Checklist (VCL) on April 11, 2013, requesting documentation concerning Claimant's, her husband's and the business's income and assets by April 22, 2013. The Department agreed that it approved the AHR's requested extensions of the due date to May 22, 2013. At the hearing, the Department worker acknowledged that the Department prematurely sent Claimant a Notice of Case Action closing her and her husband's cases effective July 1, 2013, on May 21, 2013, before the May 22, 2013 VCL due date. She testified that she reinstated Claimant's case for May 21, 2013, in order to consider the additional documentation submitted by Claimant on May 22, 2013. She concluded, however, that the submitted documents were not responsive to the VCL because they did not include a complete tax return for Claimant's business and verification of the business checking account.

At the hearing, the Department explained that it relied on Claimant's failure to adequately respond to the VCL to deny activation of coverage for Claimant's husband for the [REDACTED] hospitalization. The Department did not act in accordance with Department policy when it failed to timely notify Claimant of the denial of coverage for [REDACTED] based on failure to verify. When there are changes that may affect deductible status, the Department is limited to doing a *future* month budget. BEM 530 (October 2012), p. 1 (emphasis added). While the requirement for timely notice prevents the Department from denying coverage based on asset and income ineligibility for a *prior* month, it is noted that the Department may pursue the remedies for recoupment and debt collection provided in BAM 710, BAM 720 and BAM 725 if it concludes that a client was ineligible for benefits.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's husband's MA coverage for [REDACTED].

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Activate Claimant's husband's MA deductible case for [REDACTED];
2. Allow Claimant's provider to bill for services rendered; and
3. Issue payment to the provider it is eligible to receive.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 18, 2013

Date Mailed: November 18, 2013

NOTICE OF APPEAL: 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.

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).

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.

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

Attention: MAHS Rehearing/Reconsideration Request

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

ACE/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]