

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

IN THE MATTER OF:

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

Reg. No.: 2013-69090
Issue No.: 2001
Case No.: ██████████
Hearing Date: December 4, 2013
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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, a telephone hearing was held on December 4, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's friend, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) benefits effective August 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. In August or September 2013, Claimant applied for MA benefits.
2. On August 28, 2013, the Department sent Claimant a Notice of Case Action notifying her that her Medicare Savings Program (MSP) and MA application were denied effective August 1, 2013, ongoing. See Exhibit 1.
3. On September 9, 2013, Claimant filed a hearing request, protesting her MA/MSP denial. See Exhibit 1.

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.

In this case, Claimant was a recipient of Supplemental Security Income (SSI) benefits, however, her Social Security benefits changed to Retirement, Survivors, and Disability Insurance (RSDI) on or around May 2013. A review of Claimant's SOLQ document indicated that she is disabled and currently receives RSDI. See Exhibit 1. It appears that once Claimant's Social Security benefits changed to RSDI, her MA was terminated and she no longer had MA coverage effective August 1, 2013, ongoing. During the hearing, the Department appeared to read a Notice of Case Action that was sent to the Claimant on June 27, 2013. The Department read from this correspondence and stated that Claimant's MA coverage would end effective August 1, 2013, ongoing and that she could reapply. The Department was also unaware if an ex parte review was conducted before the closure of MA benefits.

Thereafter, the Department testified that she subsequently applied for MA benefits on September 9, 2013. The Department testified that Claimant's application was denied in error because it improperly processed the MA application. Therefore, the Department testified that due to the error, it would reprocess her application and retroactive her coverage to September 1, 2013 because she had medical expenses/bills. However, Claimant testified that she no longer had MA coverage effective August 1, 2013.

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 (July 2013), p. 5; See also BEM 150 (July 2013), pp. 6-7 regarding ex parte review for SSI recipients. 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. 5. The review includes consideration of all MA categories. BEM 105, p. 5.

The Department considers eligibility under all other MA-only categories before terminating benefits under a specific category. BEM 105, p. 5. In addition, when Group 1 eligibility does not exist but all eligibility factors except income are met for a Group 2 category, activate deductible status. BEM 105, p. 5.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (July 2013), p. 33. Both

the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, pp. 33-34. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 35.

Based on the foregoing information and evidence, the Department improperly denied Claimant's MA/MSP application and/or eligibility effective August 1, 2013, ongoing. First, it is found that the Department will determine Claimant's MA/MSP eligibility effective August 1, 2013, ongoing. The Department testified that it would redetermine her eligibility from September 1, 2013, ongoing. However, the Notice of Case Action (dated August 28, 2013) clearly indicated that her MA benefits were denied effective August 1, 2013, ongoing. This is contradictory information and the Department did not satisfy its burden of showing why there is this discrepancy. As such, the MA/MSP redetermination is effective August 1, 2013, ongoing. Second, the Department agreed that it erred in processing Claimant's MA application. Third, it appears that correspondence was sent to Claimant on or around June 27, 2013, which notified her that her MA coverage would terminate effective August 1, 2013, ongoing. The Department failed to conduct an ex parte review to determine if she is eligible for other MA categories. BEM 105, p. 5; BEM 150, pp. 6-7. Instead, it notified her to apply, which is the incorrect procedure as outlined in BEM 105. BEM 105, p. 5; BEM 150, pp. 6-7.

In summary, the Department did not act in accordance with Department policy when it improperly denied Claimant's MA and MSP application effective August 1, 2013, ongoing.

DECISION AND ORDER

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 improperly denied Claimant's MA and MSP application effective August 1, 2013, ongoing.

Accordingly, the Department's MA and MSP 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. Reregister Claimant's MA/MSP application and redetermine her MA/MSP eligibility effective August 1, 2013, ongoing;

2. Begin reprocessing the application/recalculating the MA/MSP budgets for August 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any MA/MSP benefits she was eligible to receive but did not from August 1, 2013, ongoing; and
4. Notify Claimant in writing of its MA/MSP decision in accordance with Department policy.



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

Date Signed: December 13, 2013

Date Mailed: December 13, 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.

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

EJF/cl

cc:

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