

**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.: 2013-35429
Issue No.: 2018
Case No.: ██████████
Hearing Date: June 19, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 June 19, 2013, from Detroit, Michigan. Claimant and her Authorized Hearing Representative (AHR), ██████████ appeared and testified. Participants on behalf of the Department of Human Services (Department) included ██████████ Assistant Payment Worker.

ISSUE

Did the Department act in accordance with Department policy when it closed Claimant's case 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 was an ongoing recipient of MA.
2. On March 1, 2013, the Department sent Claimant a Notice of Case Action informing her that effective May 1, 2013, her MA case would be closed because she was not under age 21, pregnant or a caretaker of a minor child, and not over 65, blind or disabled. (Exhibit 3).
3. On March 7, 2013, the Department received the Claimant's request for a hearing disputing the closure of her MA case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services 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.

In this case, Claimant was a recipient of MA under the Transitional Medicaid (TMA) program. On March 1, 2013, the Department sent Claimant a Notice of Case Action informing her that the Department intended to close her TMA case effective May 1, 2013 because she was not under age 21, pregnant or a caretaker of a minor child, and not over 65, blind or disabled. (Exhibit 3). Claimant requested a hearing to dispute the closure, stating that she was disabled and eligible for MA.

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 111(October 2012), p. 3. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. BEM 111, p. 3. The review includes consideration of all MA categories. BEM 111, p. 3; See BAM 115 and 220.

At the hearing, Claimant testified that in April 2012, she informed the Department that she was having surgery and that there was a 50 percent chance that it would result in her being disabled. Claimant stated that she informed the Department again in March 2013 that she was disabled. The Department representative testified that because she was not Claimant's case worker, she did not know if the Department conducted an ex parte review to determine Claimant's eligibility for other MA programs prior to her case closure. The Department testified that because Claimant's case had already been put into closure, she had to reapply for MA under a disability based MA program and that an ex parte review was not required for clients seeking MA and alleging a disability. This is not correct. According to BEM 111, an ex parte review requires consideration of all MA categories, including disability based MA programs. BEM 111, p. 3.

Therefore, prior to closing Claimant's MA case, the Department should have completed the ex parte review process to determine Claimant's eligibility for MA under a different program, taking into account her alleged disability. At the hearing, Claimant raised additional concerns regarding medical bills that were not paid by the Department during the time that she had active and ongoing coverage. The Department informed Claimant that it would assist Claimant with resolving that issue after the hearing.

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 in accordance with Department policy when it closed Claimant's MA case prior to conducting an ex parte review. Accordingly, the Department's actions are REVERSED.

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

1. Reinstate Claimant's MA case effective May 1, 2013;
2. Complete an ex parte review to determine Claimant's eligibility for any other MA program in accordance with Department policy and consistent with this Hearing Decision;
3. Begin issuing retroactive MA coverage to Claimant for any MA coverage that she was entitled to receive but did not from May 1, 2013 ongoing in accordance with Department policy; and
4. Notify Claimant of its decision in writing in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 10, 2013

Date Mailed: July 10, 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

ZB/cl

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[REDACTED]
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