

**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.: 2013-45970
Issue No.: 2018
Case No.: ██████████
Hearing Date: July 24, 2013
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Wednesday, July 24, 2013. Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was ██████████, Family Independence Manager, and J ██████████ ██████████ Assistant Payment Worker.

ISSUE

Whether the Department's termination of Medical Assistance ("MA") benefits effective June 1, 2013 was proper.

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 MA recipient as of April 2012 based on the erroneous conclusion that Claimant was a recipient of Supplemental Security Income ("SSI"). (Exhibit 2)
2. On April 25, 2013, the Department sent a Notice of Case Action to Claimant notifying Claimant that her MA benefits would terminate as of June 1, 2013 because she was not under 21, pregnant, caretaker of a minor child, over 65, blind or disabled. Exhibit 1.

3. On May 3, 2013, the Department received Claimant's request for hearing protesting the termination of Medical Assistance. (Exhibit 5)
4. On June 1, 2013, Claimant's MA benefits terminated.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("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. 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.

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. BAM 210, p. 1. When possible, an *ex parte* review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. BAM 210, p. 1. The review includes consideration of all MA categories. BAM 210, p. 1.

In this case, Claimant applied for MA benefits in April 2012. Full MA coverage was improperly opened. At review, the Department discovered the error and sent a Notice of Case Action to Claimant notifying her that MA benefits would terminate as of June 1st because Claimant was not under 21, pregnant, caretaker of a minor child, over 65, blind, or disabled. Prior to closing the case, an *ex parte* review was not completed. This is not consistent with BAM 210, especially in light of the fact that the Adult Medical Program ("AMP") was open for enrollment. Although on the April 2012 application, Claimant marked she was not disabled (thus MA based on disability should not have been considered); however eligibility under other programs should have been considered. In light of the foregoing, the Department's denial of MA benefits without conducting an *ex parte* review is reversed.

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, finds the Department failed to establish it acted in accordance with policy when it terminated Claimant's MA benefits.

Accordingly, it is ORDERED:

1. The Department's MA determination is REVERSED.
2. The Department shall re-instate Claimant's MA benefits effective June 1, 2013.

3. The Department shall initiate supplementation of MA benefits that the Claimant was entitled to receive but did not, if otherwise eligible and qualified and in accordance with Department policy.
4. The Department shall initiate an ex parte review of Claimant's eligibility for MA benefits available to Claimant in April 2013, the date of the Notice of Case Action, in accordance with Department policy.
5. The Department shall notify Claimant in writing of the determination and in accordance with Department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 31, 2013

Date Mailed: August 5, 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 effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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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

CMM/tm

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