

**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.: 2013-65736
Issue No(s): 2001
Case No.: ██████████
Hearing Date: February 26, 2014
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 February 26, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Summary.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case?

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 benefits.
2. On August 9, 2013, the Department sent Claimant a Notice of Case Action informing her that effective September 1, 2013, her MA case would be closed on the basis that she was not under 21, pregnant, or a caretaker of a minor child in her home, that she was not 65, blind or disabled. (Exhibit A).
3. On August 20, 2013, Claimant submitted a hearing request disputing the Department's actions.

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.

Healthy Kids for pregnant women (HKP) is a FIP-related Group 1 MA category. MA is available to a woman while she is pregnant, the month her pregnancy ends and during the two calendar months following the month her pregnancy ended regardless of the reason. Once eligible for HKP a woman remains eligible until the end of her two month post-partum period unless she moves out of state or dies. BEM 125 (July 2013), p. 1. The Department is to pursue eligibility for other MA categories when a client's coverage based on pregnancy is ending. When the current application is the DCH-0373-D, the Department must send a DHS-1171 (Assistance Application) to transfer to a non-Healthy Kids MA category or start additional benefits. BEM 125, p.3.

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 125, pp.2- 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 125, p. 3. The review includes consideration of all MA categories. BEM 125, p. 3; See BAM 115 and 220.

In this case, Claimant was an ongoing recipient of MA under the HKP program. On August 9, 2013, the Department sent Claimant a Notice of Case Action informing her that effective September 1, 2013, her MA case would be closed on the basis that she was not under 21, pregnant, or a caretaker of a minor child in her home, that she was not 65, blind or disabled. (Exhibit A). At the hearing, the Department testified that because Claimant had given birth, she was no longer eligible for the HKP MA program and initiated the closure of Claimant's MA case. The Department stated that Claimant was required to submit a new application for MA to have her eligibility for a different MA category determined. The Department further testified that an ex parte review of Claimant's MA eligibility was not conducted, however, Claimant would have been eligible under a different MA program had she submitted a current application, as she was the parent of a minor child. This however, is in conflict with the Department's testimony that it completed a redetermination for Claimant's MA eligibility in August 2013 and determined that she was not eligible for MA benefits.

Prior to closing Claimant's MA case, the Department should have sent Claimant a DHS 1171 and completed a thorough ex parte review process to determine Claimant's eligibility for MA under a different program.

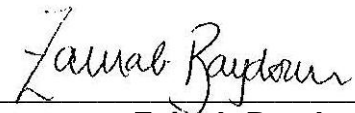
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's MA case.

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. Reinstate Claimant's MA case effective September 1, 2013;
2. Complete an ex parte review to determine Claimant's eligibility for any other MA program;
3. Issue retroactive MA coverage to Claimant for any MA benefits that she was entitled to receive but did not from September 1, 2013, ongoing; and
4. Notify Claimant of its decision in writing.



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

Date Signed: March 10, 2014

Date Mailed: March 11, 2014

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

ZB/tm

cc:

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