

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-22097
Issue No(s): 2002;3002; 3007
Case No.: [REDACTED]
Hearing Date: February 12, 2014
County: Allegan

ADMINISTRATIVE LAW JUDGE: Michael S. Newell

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 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] FIM and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Medicaid Benefits?

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 December 4, 2013, the Department sent Claimant a Verification Checklist with a December 16, 2013 due date.
2. On December 18, 2013, the Department issued a Notice of Case Action and denied Claimant's Medicare Cost Savings program, cancelled Claimant's Medicaid effective December 1, 2013, and closed her food assistance effective January 1, 2014.
3. On January 9, 2014, the Department issued a Notice of Case Action approving her Medicare cost savings program back to the program date and denying her Medicaid for allegedly failing to meet the deductible for the past three months, and reinstating her FAP from January 1, 2014 to December 31, 2014 at \$49 per month.

4. Claimant did not challenge the amount of her allotment at the hearing.
5. The department took negative action on December 18, 2013 because of the verification of self-employment.
6. Claimant sent in a paper indicating that neighbors pitched in to buy her a leaf blower (Exhibit 1), which the Department determined was insufficient.
7. The Department later decided to accept Exhibit 1 and reinstated benefits on the January 9, 2014 Notice of Case Action.
8. Claimant has since had Medicaid Part B deducted from her Social Security income that should not have been deducted.
9. The worker testified that it could take up to three months to address this concern and issue a refund from the Department because the worker has sent the matter on, and it is up to the Department's Social Security Coordinator to address the matter with the Social Security Administration.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

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, Claimant's FAP benefits were reinstated to the closure date, and Claimant does not challenge the amount of the allotment. Thus, this issue is moot. The issue with the Medicare Savings Program closure is also moot because the department reinstated benefits to the closure date.

Regarding the deduction from Claimant's Social Security check, the administrative law judge lacks jurisdiction in this regard. The ALJ is not an employee of the Federal government, and the deduction occurred after the hearing request was issued.

However, the Department may wish to expedite correcting the matter to avoid other hearings.

Concerning the Medicaid Closure, the Department had no information to justify the closure, such as when Claimant did not meet her deductible or the amount and testified that it would have to "look up" such matters. BAM 6-00 allows for reversal when, as here, the Department is unable to justify its action with materials in the file.

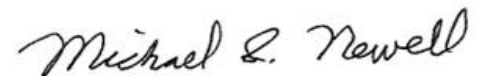
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's Medicaid program benefits.

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 Medicaid program benefits back to the December 1, 2013 closure date and redetermine eligibility.



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 21, 2014

Date Mailed: February 21, 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

MSN/las

cc:

