

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

IN THE MATTER OF:



Reg. No.: 2014-15023
Issue No(s): 2007
Case No.: [REDACTED]
Hearing Date: February 20, 2013
County: Macomb #12

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 20, 2013, from Lansing, Michigan. Participants on behalf of Claimant included Claimant his wife, [REDACTED] and [REDACTED] Interpreter. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Coordinator and [REDACTED], Eligibility Specialist, Macomb County Warren District.

ISSUE

Did the Department properly close Claimant's MA benefits effective?

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 November 16, 2013, a Notice of Case Action was generated in error cancelling Claimant's MA benefits, effective December 1, 2013.
2. The Department corrected this error and reinstated benefits effective December 1, 2013 on January 9, 2014.
3. The Department did not provide the January 9, 2014 Notice of Case Action.
4. Claimant also requested the Administrative Law Judge reduce or decrease the groups Medicaid spend down.
5. The spend down has been in place since February 1, 2012.
6. Claimant requested hearing on November 22, 2013

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.

Additionally, the Department erred in generating the November 16, 2013 Notice of Case action, so this must be reversed. This issue may be moot, since the Department claims to have corrected it, but the notice regarding the correction has not been provided.

Concerning the deductible, the deductible had been in place since February 1, 2012, so the ALJ lacks jurisdiction to address this issue.

If the January 9, 2014 Notice of Case Action lists the deductible, Claimant may wish to file a hearing request regarding that notice Claimant disagrees with it, within 90 days of the decision date if a hearing request on this issue has not already been filed.. The ALJ lacks jurisdiction regarding decisions of the Department made after Claimant's hearing request and expresses no opinion on the matter.

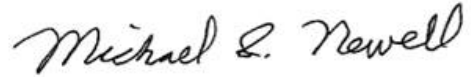
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it cancelled MA benefits effective December 1, 2013.

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 benefits back to the December 1, 2013 closure date if the Department has not done so already.



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

Date Signed: March 14, 2014

Date Mailed: March 14, 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.

2014-15023/MSN

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:

