

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

IN THE MATTER OF:



Reg. No.: 2014-19167
Issue No(s): 2002
Case No.: [REDACTED]
Hearing Date: March 10, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 March 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's son Medical Assistance (MA) benefits effective November 1, 2013, ongoing?

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's son was an ongoing recipient of MA benefits
2. On October 11, 2013, the Department sent Claimant a Notice of Case Action notifying her that her son's MA benefits closed effective November 1, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.
3. On December 18, 2013, Claimant filed a hearing request, protesting the MA case closure. See Exhibit 1.

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.

Preliminary matter

As a preliminary matter, Claimant testified that she was also disputing the closure of her MA benefits. On August 22, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA benefits closed effective October 1, 2013, ongoing. See Exhibit A. The Department's Notice of Case Action to Claimant was dated August 22, 2013. See Exhibit A. However, Claimant did not file a request for hearing to contest the Department's action until December 18, 2013. See Exhibit 1. Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action and, therefore, will be not addressed in this hearing for lack of jurisdiction. BAM 600 (March 2014), p. 6.

MA case closure

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it request. BAM 130 (July 2013), p. 6. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM 130, p. 6. The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7.

In this case, the Department began the hearing by testifying that Claimant's son MA benefits closed due to a failure to submit a redetermination packet timely. See Hearing Summary, Exhibit 1. The Department also presented the redetermination paperwork it sent to Claimant in June 2013. See Exhibit 1. However, during the hearing, it was discovered that Claimant's son MA benefits closed due to the failure to comply with the verification requirements. See Exhibit 1. Moreover, a review of the Notice of Case Action (dated October 11, 2013), did not reference redetermination policy. See BAM 210 (October 2013), pp. 1-21.

Instead, the Department testified that Claimant submitted her pay stubs in September 2013. The paystubs also included an account number in which Claimant's pay was deposited. Thus, on September 17, 2013, the Department sent Claimant a Verification Checklist (VCL), which requested verification of Claimant's checking account and it was due back by September 27, 2013. See Exhibit 1. It should be noted that the VCL stated it needed to determine her eligibility for the following programs: Food Assistance Program. See Exhibit 1. Ultimately, the Department testified that it did not receive the verification of the checking account and on October 11, 2013, the Department sent Claimant a Notice of Case Action notifying her that her son's MA benefits closed effective November 1, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.

Claimant testified that she received the VCL and mailed the verifications subsequent to the due date. Claimant testified that the checking account reported on her pay stubs was a student checking account. Moreover, Claimant testified that she submitted the verifications on December 13, 2013. Claimant testified that she submitted the pay stubs after the due date because it was difficult to access her verification online for such student accounts.

Other Healthy Kids (OHK) – MA coverage states there is no asset test. See BEM 131 (July 2013), p. 2. OHK, though, states there is an income eligibility test. See BEM 131, pp. 1-3.

Additionally, the local office and client or AHR will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600, p. 36. Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 36. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 39.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it was unable to demonstrate why Claimant's son MA case closed effective November 1, 2013, ongoing. It should first be noted that Claimant's son MA benefits that closed effective November 1, 2013, ongoing, was the OHK – MA coverage. However, as stated above, OHK – MA coverage states there is no asset test. See BEM 131, p. 2. Thus, it is unclear why the Department would request verification of a checking accounts when OHK does not require an asset test. See BEM 131, p. 2.

Nevertheless, it is determined that the Department failed to present credible testimony and evidence of why Claimant's son MA benefits closed effective November 1, 2013, ongoing, due to a failure to provide verification. BAM 600, pp. 36-39. The Department testified that Claimant's son MA benefits closed due to her failure to submit verification

of her checking account. However, it appears the VCL was in relation to the FAP benefits. See Exhibit 1. A review of the VCL stated it needed to determine her eligibility for the FAP benefits and not the MA benefits. See Exhibit 1. This presents contradictory testimony by the Department because the VCL shows that it is only in relation to the FAP benefits and not MA benefits as alleged by the Department. It is unclear if another VCL was sent to determine eligibility for the MA program. Nonetheless, this evidence was not provided at the hearing. It should also be noted that the redetermination sent in June 2013 was only in relation to the FAP benefits as well. See Exhibit 1. The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130, p. 3. Because the Department failed to show what verification was requested to determine the Claimant's son ongoing MA eligibility, it improperly closed the son's MA benefits for this reason effective November 1, 2013, ongoing. BAM 130, pp. 3 and 6-7.

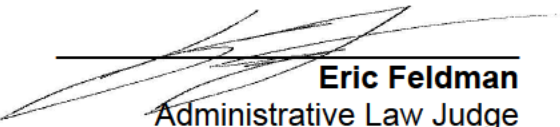
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the (i) Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly closed Claimant's son MA benefits effective November 1, 2013, ongoing; and (ii) this hearing lacks the jurisdiction to address Claimant's MA benefits closure effective October 1, 2013, ongoing.

Accordingly, the Department's decision AFFIRMED IN PART with respect to closure of Claimant's MA benefits effective October 1, 2013, ongoing, due to lack of jurisdiction and REVERSED IN PART with respect to Claimant's son MA closure effective November 1, 2013.

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 son MA case as of November 1, 2013, ongoing;
2. Begin recalculating the MA budget for November 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant's son for any MA benefits he was eligible to receive but did not from November 1, 2013, ongoing; and
4. Notify Claimant in writing of its MA decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 25, 2014

Date Mailed: March 25, 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

EJF/tlf

cc:

