

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-33711
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: May 1, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on May 1, 2014, from Redford, Michigan. Participants included [REDACTED] as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Hearings Facilitator.

ISSUE

The issue is whether DHS properly denied Claimant's Medical Assistance (MA) application by determining that Claimant was ineligible for caretaker Medicaid because her minor child was hospitalized for more than 30 days.

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 12/13/12, Claimant applied for MA benefits.
2. Claimant's application reported that she lived with a minor child.
3. For an unspecified period, Claimant's minor child was hospitalized for more than 30 days.

4. On 1/30/13, DHS denied Claimant's MA application, in part, based on a determination that Claimant is ineligible for MA benefits as a caretaker to a minor child because the minor child was hospitalized for a period of more than 30 days.

CONCLUSIONS OF LAW

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's AHR's hearing request, it should be noted that the request noted special arrangements in order to participate in the hearing; specifically, an in-person hearing was requested. Claimant's AHR's request was granted and the hearing was conducted accordingly.

Claimant's AHR requested a hearing to dispute an MA application denial. The only MA benefit dispute concerned Claimant's eligibility for Medicaid based on caretaker status.

It was not disputed that Claimant lived with a minor child. It was not disputed that Claimant's daughter was hospitalized for an unspecified period of longer than 30 days.

DHS contended that Claimant was ineligible for Medicaid based on caretaker status because of her daughter's hospitalization. DHS relied on MA group composition policy to justify the determination.

A child who has resided in a hospital for 30 or more days is not considered to be living with others and is a fiscal group of one. BEM 211 (11/2012), p. 3. DHS interpreted this policy to mean that Claimant's mother, who only had one minor child, could not use her hospitalized child as a group member during a period that her child was hospitalized. DHS misinterpreted their policy.

The above-cited policy only instructs DHS that Claimant's daughter's MA eligibility must be determined without factoring her mother's income and assets. The policy was not intended to exclude a hospitalized child from a caretaker's MA eligibility. DHS must factor caretaker policy to determine Claimant's MA eligibility.

Among other requirements, a caretaker relative is a person who except for temporary absences, the person lives with a dependent child. BEM 135 (1/2011), p. 1. A person's absence is temporary if:

- His location is known; and

- There is a definite plan for his return; and
 - He lived with the group before the absence; and
 - The absence has lasted, or is expected to last, 30 days or less.
- Id.*, p. 3

The DHS determination appears to be proper because a child who is out of the home for more than 30 days, based on the above definition, cannot be “temporarily absent”. However, DHS also lists exceptions to the definition of a temporary absence. Listed exceptions include:

- “Joint Custody”;
- A person in a medical hospital is considered in the home.
- A person is considered in the home when absent for training or education.

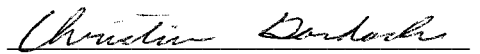
Claimant’s AHR provided testimony that Claimant’s minor child was in a medical hospital for a period of more than 30 days. Claimant’s AHR’s testimony was not verified but was credible. DHS did not dispute the testimony. Because Claimant’s child’s was in a medical hospital for more than 30 days, Claimant’s child is considered to be in Claimant’s home for purposes of Claimant’s MA eligibility. Accordingly, DHS erred in failing to evaluate Claimant’s MA eligibility based on her caretaker status.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant’s application for MA benefits. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant’s MA application dated 12/13/12, including retroactive MA benefits from 11/2012; and
- (2) initiate processing of Claimant’s MA application subject to the finding that Claimant’s daughter is a household member for purposes of Claimant’s MA eligibility based on caretaker status.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/12/2014

Date Mailed: 5/12/2014

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

CG/hw

cc:

