

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 2014-33721
Issue No(s): 2003; 4000
Case No.: ██████████
Hearing Date: April 30, 2014
County: Wayne (15)

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 April 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's mother, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) benefits effective April 1, 2014, 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 was an ongoing recipient of MA benefits. See Exhibit 1.
2. Claimant is an ongoing recipient of State Disability Assistance (SDA) benefits. See Exhibit 1.
3. On February 11, 2014, the Department sent Claimant a redetermination, which was due back by March 3, 2014. See Exhibit 1.
4. On March 5, 2014, Claimant submitted a completed redetermination. See Exhibit 1.

5. On March 18, 2014, the Department sent Claimant a Notice of Case Action notifying him that his MA benefits were closed effective April 1, 2014, ongoing, due to him not being under 21, pregnant, caretaker of a minor child, not over 65 (aged), blind, or disabled. See Exhibit 1.
6. On March 26, 2014, Claimant filed a hearing request, protesting his MA and SDA benefits denial.

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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

As a preliminary matter, Claimant also requested a hearing in which he disputed his SDA benefits on March 26, 2014. However, during the hearing, Claimant testified that he is an ongoing recipient of SDA benefits. See Eligibility Summary, Exhibit 1. As such, Claimant is no longer disputing his SDA benefits and therefore, his SDA hearing request (dated March 26, 2014) is DISMISSED.

A complete redetermination is required at least every 12 months. BAM 210 (October 2013), p. 1. For MA cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2.

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. BAM 210, p. 1. When possible, an ex parte review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. BAM 210, p. 1. The review includes consideration of all MA categories. BAM 210, p. 1.

In this case, Claimant was an ongoing recipient of MA benefits. See Exhibit 1. On February 11, 2014, the Department sent Claimant a redetermination, which was due back by March 3, 2014. See Exhibit 1. On March 5, 2014, Claimant submitted a completed redetermination. See Exhibit 1. On March 18, 2014, the Department sent

Claimant a Notice of Case Action notifying him that his MA benefits were closed effective April 1, 2014, ongoing, due to him not being under 21, pregnant, caretaker of a minor child, not over 65 (aged), blind, or disabled. See Exhibit 1.

At the hearing, it was discovered that Claimant previously requested a hearing (approximately one-year ago) due to his MA benefits being closed. Claimant testified that he withdrew his hearing because his MA benefits were reinstated. The Department testified that the DHS supervisor provided Claimant with MA – AD Care coverage. See Exhibit 1. However, the Department testified that this was not the proper coverage for the Claimant because he was either not found to be disabled by the Medical Review Team (MRT) and/or the MRT did not conduct a disability determination. See BAM 815 (July 2013), pp. 1-16. AD – Care is an SSI-related Group 1 MA category. BEM 163 (July 2013), p. 1. This category is available to persons who are aged or disabled. BEM 163, p. 1.

Claimant testified that he applied previously for MA based on disability. Moreover, both parties agreed that Claimant currently has an MA based on disability application pending. Claimant testified that this application occurred on or around the end of March 2014. This hearing will not address Claimant's MA based on disability application because it is currently pending and it is within the standard of promptness. See BAM 600 (March 2014), pp. 4-6 and BAM 115 (March 2014), pp. 14-15.

Ultimately, the Department contends that Claimant received the improper MA coverage and he was denied ongoing AD-Care coverage at the time the redetermination was completed. The Department was unsure if an ex parte review was completed. Claimant contends that he is disabled and he is in need of the MA coverage due to his medical conditions.

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. 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 improperly closed Claimant's MA benefits effective April 1, 2014, ongoing. See BAM 600, pp. 36 and 39.

The Department contended that Claimant was not eligible for MA – AD Care coverage due to the DHS supervisor applying the improper coverage approximately one-year ago. As such, the Department found Claimant not eligible for MA – AD Care at time of redetermination and closed the coverage effective April 1, 2014, ongoing. See Exhibit 1. Claimant, though, testified that he is disabled and is in need of the MA coverage due to his medical conditions. Moreover, Claimant testified that he applied for MA based on disability in the past and is in fact pending such an application at this time.

Nevertheless, the Department failed its burden of showing that it properly closed Claimant's MA benefits for April 1, 2014, ongoing, in accordance with Department policy. Even though the Department contends that Claimant was never eligible for MA – AD Care coverage, the Department was unable to present evidence if an ex parte review was completed. The evidence presented that the Department failed to conduct an ex parte review to determine if Claimant is eligible for other MA categories. See BAM 210, p. 1. Because the Department failed to determine Claimant's MA eligibility before the anticipated closure (ex parte review), it will redetermine Claimant's MA eligibility for April 1, 2014, ongoing. See BAM 210, p. 1.

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 Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly closed Claimant's MA benefits effective April 1, 2014, ongoing.

Accordingly, the Department's MA 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. Redetermine Claimant's MA eligibility for April 1, 2014, ongoing;
2. Begin recalculating the MA budget for April 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant's for any MA benefits he was eligible to receive but did not from April 1, 2014, ongoing, ongoing; and
4. Notify Claimant in writing of its MA decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's SDA hearing request (dated March 26, 2014) is **DISMISSED**.



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

Date Signed: May 7, 2014

Date Mailed: May 7, 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/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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