

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

IN THE MATTER OF:

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Reg. No.: 14-007601
Issue No.: 2001
Case No.: ██████████
Hearing Date: October 06, 2014
County: Macomb (12-Mt Clemens)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 October 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUE

Did the Department properly close Claimant's minor child's Medical Assistance (MA) coverage under the Other Healthy Kids (OHK) program?

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 minor child was an ongoing recipient of MA under the OHK program.
2. On July 3, 2014, the Department sent Claimant a Health Care Coverage Determination Notice, DHS-1606 (HCC Notice), notifying her that her child's MA case would close effective August 1, 2014.
3. On July 11, 2014, Claimant filed a request for hearing disputing the Department's actions.

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 Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the July 3, 2014, HCC Notice notified Claimant that her child's MA case would close effective August 1, 2014, because she was not under 21, pregnant, or the caretaker of a minor child in the home and was not over 65, blind, or disabled. The Notice further provided that \$0 was used to determine her income eligibility for MA coverage.

At the hearing, the Department acknowledged that Claimant's child was a minor child and that the HCC Notice improperly indicated that her MA case closed because she did not meet MA eligibility based on age. The Department also clarified that, contrary to the statements in the hearing summary that the closure of the MA case was tied to Claimant's Food Assistance Program (FAP) application, the closure was tied to an MA redetermination. The Department testified that, in connection with the redetermination, it became aware that Claimant had earned income that she had reported but that had not been previously processed in determining her child's MA eligibility under the OHK program and, once this income was considered, Claimant's child was not income-eligible for OHK coverage.

OHK was a FIP-related Group 1 MA category that provided full-MA coverage to persons under age 19 when net income does not exceed 150% of the poverty level. BEM 131 (July 2013), p. 1. Department policy no longer references the OHK program as of January 1, 2014. However, it continues to reference MAGI-related MA coverage for children under 19. BEM 105 (January 2014), p. 3. An individual's eligibility for MAGI-related MA is based on the Modified Adjusted Gross Income (MAGI) methodology. BEM 105, p. 1.

In this case, the Department testified that Claimant's child was not income-eligible for MA coverage at the time her MA case closed on August 1, 2014, but did not present any evidence supporting its calculation of Claimant's income under the MAGI methodology and what income, if any, is attributable to Claimant's child under that methodology. Furthermore, before closing a client's MA case, the Department must

conduct an *ex parte* review to consider the client's eligibility for MA under all MA categories. BEM 105, p. 5. The Department testified that it was unable to conduct an *ex parte* review in this case because Claimant had applied for her child's coverage under a Department of Community Health form that was no longer being used. However, a client should have a reasonable opportunity to complete any appropriate MA application form and to provide verification of eligibility under other categories before termination of MA. BAM 115 (July 2014), p. 9. See also BAM 220 (July 2014), p. 17.

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 child's MA case.

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 Claimant's child's full-MA coverage effective August 1, 2014, ongoing;
2. Conduct an *ex parte* review to determine Claimant's child's ongoing MA eligibility; and
3. Timely notify Claimant of its decision in a DHS-1605, Notice of Case Action.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human
Services

Date Signed: **10/9/2014**

Date Mailed: **10/9/2014**

ACE / pf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]