

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-010899
Issue No.: 2001
Case No.: ██████████
Hearing Date: November 19, 2014
County: WAYNE-DISTRICT 19
(INKSTER)

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 November 19, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR)/mother, ██████████ ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) benefits effective July 1, 2014?

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. Exhibit 1, pp. 9-13.
2. On June 30, 2014, the Department sent Claimant a Verification of Employment, which was due back by July 10, 2014. See Exhibit 1, pp. 4-5.
3. Claimant did not submit the employment verification.
4. On July 29, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying her that her MA benefits were

closed/denied effective July 1, 2014, due to her failure to comply with the verification requirements. See Exhibit 1, pp. 7-8.

5. On August 27, 2014, Claimant and her AHR filed a hearing request, protesting the MA closure/denial. See Exhibit 1, pp. 2-3.

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, Claimant was an ongoing recipient of MA benefits. Exhibit 1, pp. 9-13. Specifically, Claimant received MA - Disabled Adult Children (DAC) coverage. See Exhibit 1, p. 9. Based on a New Hire notice, on June 30, 2014, the Department sent Claimant a Verification of Employment, which was due back by July 10, 2014. See Exhibit 1, pp. 4-5 and see BAM 807 (July 2014), pp. 1-3. Claimant did not submit the employment verification.

On July 29, 2014, the Department sent Claimant a determination notice notifying her that her MA benefits were closed/denied effective July 1, 2014, due to her failure to comply with the verification requirements. See Exhibit 1, pp. 7-8. It should be noted that the determination notice appeared to close Claimant's MA - DAC case and also found her ineligible for MA - Group 2 Spend-Down (G2S) coverage. See Exhibit 1, pp. 6 and 10. Because Claimant's ongoing MA - DAC closed, it appeared the Department conducted an ex parte review to see if she was eligible for MA - G2S coverage. See BEM 158 (April 2014), p. 4 (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. The review includes consideration of all MA categories). However, the Department determined Claimant was also not eligible for MA - G2S coverage. See Exhibit 1, pp. 7-8. It was not disputed that Claimant's MA - DAC benefits closed effective July 1, 2014.

At the hearing, the AHR testified that she did receive the employment verification. The AHR testified that she attempted to contact the Department before the due date because she needed assistance in completing the verification. The AHR testified that she left voicemails and never received any contact back from the Department.

It should be noted that the Department indicated that it improperly closed Claimant's MA – DAC case because the income should not have been counted. The Department testified that the income that was requested and not received should not have been counted because Claimant is eligible for MA – DAC coverage. As such, the Department testified that it would reinstate Claimant's MA benefits after July 1, 2014.

Based on the foregoing information and evidence, the Department improperly closed Claimant's MA – DAC case effective July 1, 2014.

First, for MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130 (July 2014), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department extends the time limit up to two times. BAM 130, p. 7. 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. Furthermore, the client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p. 3. In this case, Claimant credibly testified that she attempted to contact the Department for assistance; however, the Department failed to assist the Claimant. Claimant credibly identified the name of the DHS caseworker located on the employment verification in which she attempted to contact. See Exhibit 1, p. 4. This supports Claimant's assertion that she did in fact contact the Department seeking assistance.

Second, the Department indicated that it improperly closed Claimant's MA – DAC case because the income should not have been counted. As such, the Department testified that it would reinstate Claimant's MA – DAC benefits after July 1, 2014.

Third, this Administrative Law Judge (ALJ) will not address the denial of Claimant's MA – G2S coverage due to Claimant's eligibility for MA – DAC coverage. Nevertheless, Department policy states that persons may qualify under more than one MA category. BEM 105 (January 2014), p. 2. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. In this case, MA – DAC is a more beneficial category than MA – G2S coverage. See BEM 105, p. 4.

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 did not act in accordance with Department policy when it improperly closed Claimant's MA – DAC coverage effective July 1, 2014.

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. Reinstate Claimant's MA – DAC coverage effective July 1, 2014 in accordance with Department policy.



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

Date Signed: **11/21/2014**

Date Mailed: **11/21/2014**

EJF / cl

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 48909-8139

CC:

[REDACTED]
[REDACTED]
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