

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

**IN THE MATTER OF:**

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

Reg. No.: 14-003120  
Issue No.: 2001  
Case No.: ██████████  
Hearing Date: August 7, 2014  
County: WAYNE-DISTRICT (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 August 7, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR), ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist, and ██████████, Eligibility Specialist.

**ISSUE**

Did the Department properly deny Claimant's Medical Assistance (MA) application effective August 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. On November 27, 2013, the Authorized Representative (AR) (who is also the AHR and hereinafter referred to as AHR) applied for MA benefits on behalf of Claimant, retroactive to August 1, 2013. See Exhibit 2, pp. 1-25.
2. In the application, Claimant and/or the AHR indicated that she is pregnant now/last three months and the due date/pregnancy end date is May 1, 2013. See Exhibit 2, p. 7.
3. On December 5, 2013, the Department sent only the Claimant a Notice of Case Action notifying her that her MA application was denied effective August 1, 2013,

ongoing, due to not being blind, disabled, pregnant, parent/caretaker relative of a dependent child or meet age requirements. See Exhibit 1, pp. 2-8.

4. On February 19, 2014, the AHR received a denied Facility Admission Notice (MSA-2565-C), with no denial reason given; however, the AHR subsequently discovered the denial reasons.
5. On May 16, 2014, Claimant's AHR filed a hearing request, protesting the MA denial. See Exhibit A, p. 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 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.

#### **Preliminary matter**

On June 6, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant and the AHR a notice, which indicated that the MA appeal may not be timely with regard to one or more of the issues raised therein. Thus, this Administrative Law Judge (ALJ) must consider as the first issue at this hearing whether the MA appeal is timely.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (March 2014), p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6.

On November 27, 2013, the AHR applied for MA benefits on behalf of the Claimant, retroactive to August 1, 2013. See Exhibit 2, pp. 1-25. On December 5, 2013, the Department sent only the Claimant a Notice of Case Action notifying her that her MA application was denied effective August 1, 2013, ongoing. See Exhibit 1, pp. 2-8. The evidence indicated that the Department did not send the AHR the MA denial notice dated December 5, 2013. As such, the AHR did not receive proper notice of the MA denial.

Moreover, on February 19, 2014, the AHR testified that it received a denied Facility Admission Notice (MSA-2565-C), with no denial reason given; however, the AHR testified that it subsequently discovered the denial reasons.

Based on the foregoing information and evidence, Claimant's AHR's hearing request is timely. At the time of application, the AHR provided the necessary documentation to be Claimant's representative. Furthermore, the Department failed to send the proper correspondence to the AHR (i.e., denial notice dated December 5, 2013). See BAM 110 (July 2013), p. 9 (the AR assumes all the responsibilities of a client). Because Claimant's AHR did not receive proper notice of the MA denial, the hearing request disputing the MA denial is found to be timely. See BAM 600, pp. 4-6.

### **MA application**

As stated previously, on November 27, 2013, the AHR applied for MA benefits on behalf of the Claimant, retroactive to August 1, 2013. See Exhibit 2, pp. 1-25. In the application, Claimant and/or the AHR indicated that she is pregnant now/last three months and the due date/pregnancy end date is May 1, 2013. See Exhibit 2, p. 7. On December 5, 2013, the Department sent only the Claimant a Notice of Case Action notifying her that her MA application was denied effective August 1, 2013, ongoing. See Exhibit 1, pp. 2-8. It should be noted that Claimant did not apply for MA based on disability.

At the hearing, the AHR argued that it applied for MA benefits on behalf of Claimant based on her pregnancy. The Department, though, argued that Claimant was not eligible for the MA programs based on her pregnancy.

Healthy Kids for pregnant women (HKP) is a FIP-related Group 1 MA category. BEM 125 (July 2013), p. 1. MA is available to a woman while she is pregnant, the month her pregnancy ends and during the two calendar months following the month her pregnancy ended regardless of the reason (e.g., live birth, miscarriage, stillborn). BEM 125, p. 1.

Group 2 Pregnant Women is a FIP-related category. BEM 126 (July 2013), p. 1. A woman who is eligible for, and receiving, MA when her pregnancy ends and remains otherwise eligible may continue receiving MA benefits for the two calendar months following the month her pregnancy ended. BEM 126, p. 1. The postpartum extension is available when the pregnancy ends for any reason (e.g., live birth, miscarriage, stillborn). BEM 126, p. 1.

Based on the above HKP and Group 2 Pregnant Women policies, both allow MA coverage to continue for the two calendar months following the month her pregnancy ended. BEM 125, p. 1 and BEM 126, p. 1. At the time of application, the Department testified that Claimant indicated her due date/pregnancy end date is May 1, 2013. See Exhibit 2, p. 7. Thus, two months subsequent to the pregnancy end date means the MA coverage would continue until July 2013. Claimant's application is retroactive only until August 2013, which the Department argued Claimant would not be eligible for based on

the HKP and Group 2 Pregnant Women policies. See BEM 125, p. 1 and BEM 126, p. 1.

Claimant's AHR argued that the Department failed to request a Verification Checklist (VCL) regarding the pregnancy (i.e., medical documentation). In fact, the AHR presented medical documentation that indicated Claimant was still pregnant as of August 16, 2013. See Exhibit A pp. 3-19. Thus, the AHR also argued that because Claimant was still pregnant in August 2013, she would be eligible for MA coverage. It should be noted that Claimant's medical documentation was not submitted with the original application. Moreover, the AHR testified that Claimant thought her pregnancy end date was May 1, 2013, however, it was not.

In response, the Department argued that a VCL was not necessary because Claimant was not eligible for MA benefits (HKP) and Group 2 Pregnant Women based upon the information provided at the time of the application.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (July 2013), p. 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), to request verification. BAM 130, p. 3.

Before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 7. The Department obtains verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1. The questionable information might be from the client or a third party. BAM 130, p. 1.

Based on the foregoing information and evidence, the Department improperly denied Claimant's MA application effective August 1, 2013.

The evidence indicated that the Department needed to request verification of Claimant's pregnancy because this eligibility factor (i.e., pregnancy information) was unclear, inconsistent, incomplete or contradictory. See BAM 130, p. 1. Claimant's application states that Claimant is pregnant now/last three months and that the due date/pregnancy end date is May 1, 2013. See Exhibit 2, p. 7. The information Claimant provided is unclear and inconsistent because it can be interpreted as either she is pregnant at the time of application or the pregnancy had ended. As such, the Department should have requested verification of Claimant's pregnancy to clear the inconsistency. BAM 130, 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 did not

act in accordance with Department policy when it denied Claimant's MA application effective August 1, 2013.

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. Reregister the MA application dated November 27, 2013, retroactive to August 2013;
2. Begin reprocessing the application/recalculating the MA budget for August 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not from August 1, 2013, ongoing; and
4. Notify Claimant and Claimant's AHR 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: **8/13/2014**

Date Mailed: **8/13/2014**

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:

