

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

IN THE MATTER OF:

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

Reg. No.: 14-013109
Issue No.: 2001
Case No.: ██████████
Hearing Date: April 16, 2015
County: WAYNE-DISTRICT 15
(GREYDALE)

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; and Mich Admin Code, R 792.11002. After due notice, a three-way telephone hearing was held on April 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR), ██████████ ██████████ ██████████ ██████████ ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) application effective October 1, 2013?

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 October 17, 2013, Claimant's authorized representative (AR – who is also the AHR in this case) applied for MA benefits on the behalf of the Claimant, his spouse, and two grandchildren. See Exhibit 1, pp. 10-17.
2. The two grandchildren were under the age of 18 and both lived with the Claimant. See Exhibit 1, p. 16-17.
3. On November 14, 2013, the Department sent only the Claimant a Notice of Case Action notifying him that his MA application was denied effective October 1, 2013, ongoing, because he was not blind, disabled, pregnant, parent/caretaker relative of a dependent child, or meet age requirements. See Exhibit 1, pp. 2-3. The denial

notice also indicated Claimant was not eligible for the Adult Medical Program (AMP). See Exhibit 1, p. 3.

4. The Department failed to send the Notice of Case Action to the AHR at the time.
5. On February 20, 2014, Claimant's AHR filed a hearing request, disputing the Department's failure to process the MA application as it was unaware the denial notice was only issued to the Claimant.
6. On February 27, 2014, the AHR received the Notice of Case Action for the first time from the Department and withdrew the hearing request on March 3, 2014.
7. On March 25, 2014, the AHR filed a hearing request, protesting the MA denial. See Exhibit 1, p. 5.
8. On January 2, 2015, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing scheduling a hearing on January 14, 2015.
9. On January 20, 2015, an Order of Dismissal was issued for Claimant's failure to attend the hearing.
10. On or around March 18, 2015, the AHR submitted a Request to Vacate Dismissal.
11. On March 26, 2015, the Administrative Law Judge (ALJ)/Manager issued an Order Vacating the Dismissal and Order to Schedule Matter for Hearing.
12. On March 27, 2015, the MAHS sent both parties (including the AHR) a Notice of Hearing scheduling a three-way hearing for April 16, 2015.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

As a preliminary matter, the evidence indicated that Claimant's AHR never received the Notice of Case Action generated on November 14, 2013 until February 27, 2014. See

Exhibit 1, p. 5. As such, this ALJ finds that Claimant's AHR hearing request (dated March 25, 2014) is timely. See BAM 600 (July 2013), pp. 4-6.

Group 2 Caretaker Relative (G2C) is a FIP-related Group 2 MA category. BEM 135 (July 2013), p. 1. MA is available to parents and other caretaker relatives who meet the eligibility factors. BEM 135, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 135, p. 1. Income eligibility exists when net income does not exceed the Group 2 needs. BEM 135, p. 3. If the net income exceeds Group 2 needs, MA eligibility is still possible (deductible). BEM 135, p. 3.

A caretaker relative is a person who lives with a dependent child (except for temporary absences), the person is a parent of the dependent child or the specified relative (other than a parent) who acts as a parent for the dependent child (acts as a parent means provides physical care and/or supervision), and other eligibility factors listed in BEM 135. See BEM 135, pp. 1-2.

A child is a dependent child when the child is born, the child meets the Family Independence Program eligibility factors, the child is a resident using MA policy, the child meets the following age or age and school attendance requirement, and other eligibility factors listed in BEM 135. See BEM 135, p. 3. A specified relative includes a grandparent. See BEM 135, p. 5.

The client's statements regarding relationship, primary caretaker, presence in the home and school attendance for the dependent child(ren) may be accepted. BEM 135, p. 7. Verification is required only if the client's statements are inadequate or inconsistent with other information. BEM 135, p. 7.

In this case, the AHR argued that Claimant qualifies for the MA – G2C coverage as he is the caretaker relative of his two grandchildren. See Exhibit 1, p. 5. Even though the denial notice indicated that Claimant was not eligible because he was not a parent/caretaker relative of a dependent child or meet age requirements, the AHR argued this was improper. For example, Claimant's application requested MA coverage for both grandchildren who are under 18 and indicated that each spend 31 days each month with the Claimant. See Exhibit 1, pp. 16-17. Therefore, the AHR argued that Claimant qualified for MA – G2C coverage and requests that the application be reprocessed. See Exhibit 1, p. 5.

In response, the Department failed to rebut the AHR argument that Claimant is not eligible for coverage under MA - G2C. The Department failed to present testimony or evidence of how Claimant did not qualify under MA – G2C.

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 (April 2015), p. 35. 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. 38.

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 denied Claimant's MA application effective October 1, 2013, ongoing. See BAM 600, pp. 35-38. As stated above, the AHR provided credible evidence that Claimant was the caretaker relative of his two grandchildren. See Exhibit 1, pp. 10-17. The Department failed its burden of showing that it properly denied Claimant's MA application, specifically, the Department failed to show how Claimant is not eligible for MA – G2C. As such, the Department will reprocess Claimant's MA application dated October 17, 2013 in accordance with Department policy. This ALJ does not conclude that Claimant is eligible for MA – G2C as the Department will have to redetermine eligibility. See BEM 135, pp. 1-7.

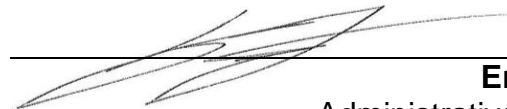
DECISION AND ORDER

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 denied Claimant's MA application effective October 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. Initiate re-registration and reprocessing of Claimant's MA application dated October 17, 2013;
2. Begin issuing supplements to Claimant for any MA benefits he was eligible to receive but did not from October 1, 2013, ongoing; and
3. Begin notifying Claimant and Claimant's AHR of its MA decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/16/2015**

Date Mailed: **4/16/2015**

EJF/tm

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]