

**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.: 2014-11326
2014-12305
Issue No.: 2001, 4001
Case No.: ██████████
Hearing Date: January 9, 2014
County: Wayne (98)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Thursday, January 9, 2014. Claimant appeared, along with ██████████ ██████████, and testified. Participating on behalf of Department of Human Services (Department) were ██████████ ██████████.

ISSUE

Whether the Department properly terminated Medical Assistance (MA) benefits for Claimant's spouse as of October 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. Claimant, her spouse, and children were MA recipients.
2. On October 21, 2013, the Department sent a Notice of Case Action to Claimant informing her that her spouse was denied MA benefits because he was not "aged, blind, disabled, under 21, pregnant or parent/caretaker of dependent child."
3. On October 25, 2013, the Department received Claimant's written request for hearing protesting the termination of MA benefits.

4. Claimant's spouse applied for MA and State Disability Assistance (SDA) benefits.
5. The Department found Claimant's spouse not disabled for purposes of the MA based on disability and SDA.
6. On November 13, 2013, the Department received a second request for hearing based on the denial of State Disability Assistance (SDA) benefits.

CONCLUSIONS OF LAW

As a preliminary matter, the two files presented at hearing contained 3 requests for hearing. This decision addresses MA eligibility and the denial of SDA benefits. A second hearing is scheduled on February 18, 2014, at 9:30a.m. to address Food Assistance Program (FAP) benefits. The registration number for that hearing is 2014-20884.

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Tables (RFT).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations ("CFR"). The Department of Human Services, formerly known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

A caretaker relative is a person who lives with a dependent child; is the parent or specified relative who acts as parent for the dependent child; is not participating in a strike; and meets MA eligibility factors (not applicable here). BEM 135 (July 2013), p. 1. When a dependent child lives with both parents, both parents may be caretaker relatives. BEM 135, p. 2. A stepparent is a specified relative. BEM 135, p. 5. Occasionally, a specified relative (other than the parent) claims to act as parent for the dependent child and the child's parent both live with the child. BEM 135, p. 2. The client's statement regarding who acts as parent, must be accepted. BEM 135, p. 2. If both the parent and other specified relative claim to act as parent, the parent is assumed to be the caretaker relative. BEM 135, p. 2. When only the other specified relative claims to act as parent, both the other specified relative and the parent(s) may be caretaker relatives. BEM 135, p. 2.

In this case, Claimant's spouse was an ongoing recipient of MA benefits. On October 21, 2013, the Department sent a Notice of Case Action to Claimant informing her that MA benefits for her spouse (and stepfather of her children) would be terminated because her husband of 10 years was not "aged, blind, disabled, under 21, pregnant or parent/caretaker of dependent child." Claimant, and her spouse, testified that her spouse acts as the parent for her children. Pursuant to BEM 135, when the other specified relative (here, Claimant's spouse), claims to act as parent, both the other

specified relative (Claimant's spouse) and the parent (Claimant) may be caretaker relatives. In light of the foregoing, the closure of MA benefits for Claimant's spouse, based on a finding that Claimant's spouse was not a caretaker relative is REVERSED.

It should be noted that because Claimant's spouse was denied MA benefits, an application for MA and SDA was made in an effort to get MA coverage. The Department found Claimant not disabled and denied benefits. In light of the finding that Claimant is a caretaker relative and is entitled to MA benefits based on this status (see above), the denial based on a finding of not disabled is moot. As such, the request for hearing on this basis is DISMISSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds the Department failed to establish it acted in accordance with Department policy when it terminated Claimant's spouse MA benefits. It is further found, that Claimant's request for hearing for the denial of MA and SDA benefits based on a finding of not disabled is DISMISSED.

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 spouse's MA benefits as of October 1, 2013, ongoing, based on his status as a caretaker relative.
2. Supplement for lost benefits (if any) that the group was entitled to receive if otherwise eligible and qualified.



Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 4, 2014

Date Mailed: February 4, 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.

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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

CMM/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]