

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-18476
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: March 13, 2014
County: Oakland #2

ADMINISTRATIVE LAW JUDGE: MICHAEL S. NEWELL

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 March 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and her son, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] APS and [REDACTED], ES.

ISSUE

Did the Department properly terminate Claimant's MA?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. An MRT packet was mailed to Claimant on November 20, 2013, due December 2, 2013.
2. Claimant did not return the packet.
3. On December 4, 2013, Claimant told the worker that she was not disabled.
4. On December 4, 2013, the Department notified Claimant that it was cancelling her Medicaid effective January 1, 2014 because Claimant was "[n]ot aged, blind, disabled, under 21, pregnant or parent/caretaker relative of dependent child." (Exhibit 2).
5. Claimant is in fact not aged, blind, disabled, under 21, pregnant or parent/caretaker relative of dependent child.
6. Claimant was not receiving SSI or RSDI at any time relevant.

7. There is no evidence that an ex parte review was conducted before the Department decided to cancel Claimant's Medicaid.
8. On December 11, 2013, Claimant requested hearing.
9. It is unclear why Claimant was previously on disability based Medicaid previously, and it appears to have been an error.

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 the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Additionally, Claimant is not eligible for disability based Medicaid or SSI related Medicaid. Claimant is in fact not aged, blind, disabled, under 21, pregnant or parent/caretaker relative of dependent child. See BEM 105, p 6. Although Claimant believed she should be entitled to Medicaid because her husband is disabled, group 2 Caretaker is limited to those caring for a dependent child. See BEM 135.

The Department did not address Claimant's eligibility for MA with a deductible before closure and should address this on remand.

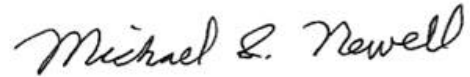
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed MA benefits.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED IN PART with respect to closing Claimant's MA and the case is remanded to address Claimant's eligibility for a spend down under any other programs.

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. Determine whether Claimant would have been eligible for MA spend down as of the closure date.



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 4, 2014

Date Mailed: April 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.

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.

2014-18476/MSN

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

MSN/las

cc:

