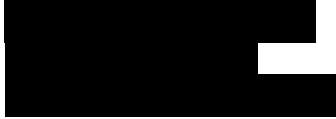


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-21421
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: March 13, 2014
County: Wayne (17)

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 March 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Eligibility Specialist. Also, [REDACTED] was present as Claimant's interpreter.

ISSUE

Did the Department properly process Claimant's child Medical Assistance (MA) benefits as Emergency Services Only (ESO) coverage effective December 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 May 31, 2013, the Department sent Claimant a Notice of Case Action notifying him that his child's MA benefits were approved for Other Healthy Kids (OHK) – MA coverage effective June 1, 2013, ongoing. See Exhibit 1.
2. On May 31, 2013, the Notice of Case Action also notified that Claimant's and his wife's MA benefits were denied effective June 1, 2013, ongoing. See Exhibit 1.
3. On November 1, 2013, the Department sent Claimant a Notice of Case Action notifying him that his child's MA benefits continued as ESO coverage effective December 1, 2013, ongoing. See Exhibit 1.

4. On December 26, 2013, Claimant filed a hearing request, protesting his child's MA - ESO coverage and his MA benefits case closure. See Exhibit 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 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.

Preliminary matter

As a preliminary matter, on December 26, 2013, Claimant also filed a hearing request, protesting his MA case closure. See Exhibit 1. Claimant also testified during the hearing that he was protesting his wife's MA closure as well. On May 31, 2013, the Notice of Case Action also notified that Claimant's and his wife's MA benefits were denied effective June 1, 2013, ongoing. See Exhibit 1. The Department's Notice of Case Action to Claimant was dated May 31, 2013. See Exhibit 1.

However, Claimant did not file a request for hearing to contest the Department's action as to him and his wife's closure until December 26, 2013. See Exhibit 1. Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action and therefore, DISMISSED, for lack of jurisdiction. BAM 600 (March 2014), p. 6.

MA – ESO coverage

To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (July 2013), p. 2. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2. A child born to a woman receiving Medicaid is considered a U.S. citizen. BEM 225, p. 3. No further documentation of the child's citizenship is required. BEM 225, p. 3. MA coverage is limited to emergency services for persons with certain alien statuses or U.S. entry dates as specified in BEM 225. BEM 225, p. 3.

On May 31, 2013, the Department sent Claimant a Notice of Case Action notifying him that his child's MA benefits were approved for OHK – MA coverage effective June 1, 2013, ongoing. See Exhibit 1. Subsequent to the approval, Claimant's child received ongoing MA – OHK coverage. See Eligibility Summary, Exhibit 1. However, on November 1, 2013, the Department sent Claimant a Notice of Case Action notifying him that his child's MA benefits continued as ESO coverage effective December 1, 2013,

ongoing. See Exhibit 1. A review of the Notice of Case Action identifies the child's MA benefits as OHK, but only for ESO coverage. See Exhibit 1. On December 26, 2013, Claimant filed a hearing request, protesting why his child's full MA coverage converted to only ESO coverage. See Exhibit 1.

At the hearing, the Claimant testified that his child is not a U.S. citizen and the child's date of entry (DOE) occurred approximately the beginning of 2012. The Department was unable to present testimony or evidence why Claimant's child OHK indicated ESO coverage as well.

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, p. 36. Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 36. 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. 39.

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 was unable to present evidence or testimony of why the Claimant's child received MA – ESO coverage effective December 1, 2013. BAM 600, pp. 36-39. Claimant's child received ongoing MA – OHK coverage since June 1, 2013. See Eligibility Summary, Exhibit 1. However, there was no evidence presented as to why the child benefits switched from full MA to ESO coverage. It appears that due to the child's citizenship that the she is not eligible for full MA. However, BEM 225 provides further policy on the requirements of whether a person is eligible for full MA coverage or ESO. See BEM 225, pp. 1-3. Therefore, the Department will redetermine Claimant's child MA eligibility for December 1, 2013, ongoing, in accordance with Department policy. See BEM 225, pp. 1-2.

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 did not act in accordance with Department policy when it failed to establish that it properly activated Claimant's child MA coverage for December 1, 2013, ongoing.

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. Redetermine Claimant's child MA eligibility for December 1, 2013, ongoing, in accordance with Department policy;
2. Begin recalculating the MA budget for December 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant's child for any MA benefits she was eligible to receive but did not from December 1, 2013, ongoing; and
4. Notify Claimant in writing of its MA decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant and his wife's MA denial hearing request (dated December 26, 2013) is **DISMISSED** due to lack of jurisdiction.



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

Date Signed: March 31, 2014

Date Mailed: March 31, 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.

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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

EJF/tlf

cc:

