

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

IN THE MATTER OF:

██████████
██████████
██

Reg. No.: 2014-21510
Issue No(s): 2001
Case No.: ██████████
Hearing Date: March 24, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case?

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 was an ongoing recipient of MA benefits.
2. On October 22, 2013, the Department sent Claimant a Notice of Case Action informing her that effective December 1, 2013, her MA benefits would be terminated on the basis that she was not under 21, pregnant, or a caretaker of a minor child in her home, that she was not over age 65, blind or disabled. (Exhibit 1).
3. On January 8, 2014, Claimant submitted a hearing request disputing the Department's actions.

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.

Group 2 Persons Under Age 21 (G2U) is a FIP related Group 2 MA category. MA under this program is available to a person who is under age 21 and meets the eligibility factors found in BEM 132. The Department is to consider eligibility for all other MA categories when a person reaches age 21 or otherwise becomes ineligible for MA under the G2U category. BEM 132 (July 2013), p.1.

Additionally, an ex parte review is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. BEM 132, p. 1. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories. BEM 32, p. 1; See BAM 115 and 220.

When it is determined that a recipient will no longer meet the eligibility criteria for FIP-related Medicaid because of an actual or anticipated change, the Department is to determine whether the recipient has indicated or demonstrated a disability (see glossary) as part of the ex parte review (see glossary). If, during the ex parte review it is determined a recipient has indicated or demonstrated a disability, request from the recipient additional information needed to proceed with a disability determination. Pending the determination, the Department is to continue the recipient's Medicaid and follow the procedures found in BAM 220. BAM 220 (January 2014), pp. 17-18.

In this case, Claimant was an ongoing recipient of MA under the G2U program. The Department stated that because Claimant had reached age 21, she was no longer eligible for MA under the G2U program and initiated the closure of her MA case. On October 22, 2013, the Department sent Claimant a Notice of Case Action informing her that effective December 1, 2013, her MA case would be closing on the basis that she not under age 21, pregnant or a caretaker of a minor child, and not over 65, blind or disabled. (Exhibit 1)

At the hearing, the Department remained unable to explain whether or not an ex parte review was conducted to determine Claimant's eligibility for a different MA program prior to initiating the closure of her MA case. Claimant testified that she has several medical conditions such as anxiety and depression and that she takes medication for bipolar

disorder. Claimant further stated that she is required to have surgery on her ankle and that she regularly sees a doctor for problems with her back. The Department was unaware if Claimant's medical conditions were evaluated or if her eligibility for MA under a disability based program was considered.

Prior to closing Claimant's MA case, the Department should have completed a thorough ex parte review to determine Claimant's eligibility for MA under a different program, taking into account her noted medical conditions.

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 Claimant's MA case.

DECISION AND ORDER

Accordingly, the Department's 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. Reinstate Claimant's MA case effective December 1, 2013;
2. Complete an ex parte review to determine Claimant's eligibility for all MA programs;
3. Issue retroactive MA coverage to Claimant for any MA benefits that she was entitled to receive but did not from December 1, 2013, ongoing; and
4. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 27, 2014

Date Mailed: March 28, 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.

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

ZB/tm

CC:

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