

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-27787
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: April 9, 2014
County: Newaygo County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, an in-person hearing was held on April 9, 2014, from White Cloud, Michigan. Participants on behalf of Claimant included [REDACTED], wife. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

The record was left open for the department to provide additional documentary evidence, which was received on April 9, 2014 after the telephone hearing proceedings concluded.

ISSUE

Did the Department properly determine Claimant's Medicaid eligibility for the month of September 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 August 21, 2013, a Notice of Case Action was issued to Claimant stating, in part, he would have a monthly Medicaid deductible of \$ [REDACTED] effective September 1, 2013.
2. The Department received documentation of some medical expenses Claimant incurred in September 2013.
3. On February 6, 2014, Claimant filed a hearing request because they had just found out Claimant has no Medicaid coverage for the month of September 2013.

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 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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220.

Regarding Adequate Notice and Timely Notice, BAM 200 states:

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). Adequate notice is given in the following circumstances:

All Programs

- Approval/denial of an application.
- Increase in benefits.

FIP, RCA, SDA, MA, CDC and AMP Only

A recipient or his legal guardian or authorized representative requests in writing that the case be closed.

- Factual information confirms a recipient's death.
- It is verified that a recipient has been approved for assistance in another state.
- It is verified that an eligible child, **or in MA**, an eligible group member of any age, has been removed from the home as a result of court action.

MA and TMAP Only

- Case opening with a deductible or patient-pay amount.
- Decrease in post-eligibility patient-pay amount.
- Recipient removed due to his eligible status in another case.
- Divestment penalty when level of care (LC) code is blank or 20.

- Addition of MA coverage on a deductible case.
- Increase in medical benefits. Coverage changes: (list omitted by ALJ)

Timely notice is given for a **negative action** unless policy specifies adequate notice or no notice. See Adequate Notice and for, CDC and FAP only, Actions Not Requiring Notice, in this item. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action.

BAM 220

The BAM 220 policy addressing Actions Not Requiring Notice address the Food Assistance Program (FAP) only. BAM 220.

Income eligibility exists for all or part of the month tested when the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545.

Claimant was receiving MA as a caretaker relative of minor children. On August 21, 2013, a Notice of Case Action was issued to Claimant stating, in part, he that would have a monthly Medicaid deductible of \$176 effective September 1, 2013. The Department asserted that the children moved out of the home on August 30, 2013. On September 3, 2013, a Notice of Case Action was issued to Claimant stating the Medicaid case would close effective October 1, 2013 because Claimant is not under 21, pregnant, a caretaker of a minor child in the home, over age 65, blind or disabled. There is no evidence any notice was ever issued to Claimant stating the Medicaid case would close effective September 1, 2013. This appears to be in accordance with the BAM 220 policy requiring timely notice of negative case actions mailed at least 11 days before the intended negative action takes effect as the circumstances did not meet the criteria for when adequate notice or no notice can be given.

The Eligibility Specialist's testimony and the documentation submitted after the close of the telephone hearing proceedings on April 9, 2014 establish that the Department received at least some¹ documentation of medical expenses the Claimant incurred in the month of September 2013 that exceed the \$176 deductible. However, the evidence indicates the Department has failed to process the documentation of these medical expenses to determine Claimant's Medicaid eligibility for the month of September 2013.

The local office sought policy clarification and the email response states "per BAM 220 page 3 we only give adequate notice when adding MA coverage to a deductible case." However, this response fails to address the issue in this case. Rather, the issue is that the Department never processed the medical expenses for the September 2013 deductible for Medicaid coverage because the children had moved out of the home, yet there was never a written notice that the Medicaid case would close effective September 1, 2013.

¹ It was not clear if documentation of the medical expenses from Claimant's September 2013 surgery were submitted to the Department.

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 determined Claimant's Medicaid eligibility for the month of September 2013.

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. Re-determine Claimant's Medicaid eligibility for the month of September 2013, to include allowing the submission of documentation of medical expenses or any other needed verification(s), in accordance with Department policy.
2. Issue Claimant written notice of the Medicaid determination in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 5, 2014

Date Mailed: May 5, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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.

201427787/CL

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 48909-07322

CL/hj

cc:

