

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-33408
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: April 30, 2014
County: Wayne (17)

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 April 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her father, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Case Manager and [REDACTED], Agency Translator.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) benefits?

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 January 15, 2014, an administrative hearing was held with respect to Claimant's MA benefits.
3. The Hearing Decision from the hearing held on January 15, 2014, found that the Department did not act in accordance with Department policy with respect to the closure of Claimant's MA case and ordered the Department to initiate certain actions with respect to Claimant's MA benefits.
4. On March 4, 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.

Additionally, Claimant requested a hearing regarding the Department's failure to comply with a previous administrative hearing decision with respect to her MA benefits. The Hearing Decision mailed on February 6, 2014, orders the Department to: (i) reinstate Claimant's MA case effective November 1, 2013; (ii) complete an ex parte review to determine Claimant's eligibility for any other MA program, taking into consideration her alleged disability; (iii) issue retroactive MA coverage to Claimant for any MA benefits that she was entitled to receive but did not from November 1, 2013, ongoing; and (iv) notify Claimant of its decision in writing.

According to BAM 600, the Department is to implement and certify a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600 (March 2014), pp. 42-43. At the hearing, the Department testified that on February 27, 2014, it certified the decision and order, however, due to a technical issue, was unable to implement the order, so a help desk ticket was issued. (Exhibits 1 and 2). The Department stated that the help desk ticket was subsequently resolved on March 20, 2014, and that Claimant was approved for MA under the Group 2 Persons Under Age 21 (G2U) program from November 2013, through January 2014. The Department testified that Claimant was then transferred to the Plan First MA program from January 1, 2014, through March 31, 2014 and on April 1, 2014, Claimant was approved for MA under the Healthy Michigan Plan for ongoing MA benefits. The Department presented documentaiton in support of its testimony concerning Claimant's MA coverage, specifically, an eligibility summary as well as a Medicaid Eligibility search. (Exhibits 1 and 3).

At the hearing, the Department failed to present any evidence concerning whether or not an ex parte review was conducted, as ordered in the prior hearing decision. The Department stated that on January 21, 2014, the Medical Review Team determined that Claimant was not disabled for MA purposes and that she was denied MA under a disability based program. This denial could not have been in connection with the implementation of the decision and order, however, as the hearing decision was mailed on February 6, 2014.

In addition, the Department remained unable to explain why Claimant was transferred to the Plan First MA program effective January 1, 2014, when at that point, an ex parte review had not been conducted. The Department should have continued Claimant's MA benefits under the previous MA program (G2U) while it was evaluating her disability. BAM 220 (July 2013), pp.17-18. Further, BEM 105 provides that persons may qualify under more than one MA category and federal law gives persons the right to the most beneficial category. BEM 105 (January 2014), p.2. Therefore, the Department has failed to satisfy its burden in establishing that it acted in accordance with Department policy when it failed to conduct an ex parte review as previously ordered and determined that Claimant was eligible for MA under the Plan First program from January 1, 2014, through March 31, 2014. The Department also failed to properly notify Claimant of its decision concerning her MA benefits in writing, which it was also ordered to do in the February 6, 2014, hearing decision.


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 processed Claimant's MA benefits. Claimant is informed that should she receive a Notice from the Department with a determination that she is not disabled, she is entitled to request a hearing to dispute the denial of disability based MA.

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 under the G2U program from January 1, 2014, through March 31, 2014;
2. Complete an ex parte review to determine Claimant's eligibility for any other MA program, taking into consideration her alleged disability; and
3. Notify Claimant of its decision in writing.



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

Date Signed: May 20, 2014

Date Mailed: May 20, 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/tlf

cc:

