

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 2014-8872
Issue No(s): 2001
Case No.: ██████████
Hearing Date: January 15, 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 January 15, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Case Worker and ██████████, Agency Translator.

ISSUE

Did the Department properly close Claimant's daughter'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's daughter was an ongoing recipient of MA benefits.
2. On October 10, 2013, the Department sent Claimant a Notice of Case Action informing him that effective November 1, 2013, his daughter's MA case would be closing on the basis that she is not under age 21, pregnant or a caretaker of a minor child, and not over 65, blind or disabled. (Exhibit 1)
3. On October 21, 2013, 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.

In this case, Claimant was previously receiving MA under the MA for SSI recipients MA program. The Department testified that when Claimant's SSI benefits were terminated in July 2013, she was transferred to her parents MA case and enrolled in the Group 2 Under 21 MA program, which is a FIP related MA program. The Department further stated that because Claimant's daughter had reached age ■■■ she was no longer eligible for MA under the Group 2 Under 21 MA program and initiated the closure of her MA case. On October 10, 2013, the Department sent Claimant a Notice of Case Action informing him that effective November 1, 2013, his daughter's 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)

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. 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 132 (July 2013), 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, 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, continue the recipient's Medicaid. BAM 220 (July 2013), pp. 17-18.

The Department stated that an ex parte review was conducted, however, there was no supporting documentation presented. The Department further testified that Claimant's daughter's eligibility for MA under a disability based program was not considered prior to her Group 2 MA case closure because the Department was not aware that she had an alleged disability. The Department stated after the request for hearing was submitted, the Department sent Claimant a Quick Note informing him that his daughter

should submit a new application for MA so a disability determination could be made. (Exhibits 2 and 3).

Prior to closing Claimant's daughter's MA case, the Department should have completed a thorough ex parte review process to determine Claimant's eligibility for MA under a different program, taking into account her alleged disability. In light of the fact that Claimant's daughter was a previous recipient of SSI benefits that the Department was aware of Claimant's medical conditions, as the reason for the termination of her SSI benefits was not made clear at the hearing.

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 daughter'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 daughter's MA case effective November 1, 2013;
2. Complete an ex parte review to determine Claimant's daughter's eligibility for any other MA program, taking into consideration her alleged disability;
3. Issue retroactive MA coverage to Claimant's daughter for any MA benefits that she was entitled to receive but did not from November 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: February 6, 2014

Date Mailed: February 7, 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]