

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

IN THE MATTER OF:

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Reg. No.: 15-005647
Issue No.: 2001
Case No.: ██████████
Hearing Date: May 14, 2015
County: Wayne-District 19 (Inkster)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 14, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's friend. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case effective April 1, 2015?

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 under the Healthy Michigan Plan (HMP).
2. On February 10, 2015, the Department sent Claimant a redetermination concerning her ongoing eligibility for MA and Medicare Savings Program (MSP) benefits with a March 2, 2015, due date.
3. On February 20, 2015, the Department sent Claimant a Health Care Coverage Determination Notice notifying her that her MA case was closing effective April 1, 2015, because she was not under 21, over 65, blind, disabled, pregnant, or the caretaker of a minor child in the home (Exhibit C).
4. On March 9, 2015, Claimant submitted a completed redetermination (Exhibit B).

5. On March 19, 2015, the Department sent Claimant a Health Care Coverage Determination Notice notifying her that she was ineligible for MSP from July 1, 2014, because she did not meet the basic criteria for the program and because she was not under 21, over 65, blind, disabled, pregnant, or the caretaker of a minor child in the home. The Notice also indicated that income of \$21,264 was used to determine her MA eligibility.
6. On April 3, 2015, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Claimant had been receiving MA under the HMP program. On February 20, 2015, the Department notified her that her MA case was closing effective April 1, 2015, because she was not under 21, over 65, blind, disabled, pregnant, or the caretaker of a minor child in her home. It is unclear what triggered this Notice. However, on March 9, 2015, Claimant submitted an MA redetermination mailed to her on February 10, 2015, and on March 19, 2015, the Department sent her a Health Care Coverage Determination Notice advising her that annual income of \$21,264 was used to calculate her MA eligibility.

Claimant disputed the closure of her MA case. At the hearing, the Department testified that Claimant had been receiving MA under the HMP program but acknowledged that Claimant was blind. The Department testified that Claimant's MA case was pending for verification of income.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for HMP coverage. BEM 105 (January 2014), p. 1; Michigan

Department of Community Health, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1, *available at* <http://www.mdch.state.mi.us/dch-medicaid/manuals/MedicaidProviderManual.pdf>. HMP is available to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. Michigan Department of Community Health, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1.

In this case, Claimant, who reported in her redetermination that she filed taxes only for herself, has a group size of one for MAGI purposes. See Michigan Department of Community Health, MAGI Related Eligibility Manual, § 5.2, *available at* http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf. For a group size of one, the applicable income limit for HMP eligibility for a one-person group is \$15,521. <http://aspe.hhs.gov/POVERTY/14poverty.cfm>. Claimant indicated in her redetermination that she received monthly income totaling \$1772 (\$772 from Retirement, Survivors and Disability Insurance; \$500 from ██████████; and \$500 from ██████████) (Exhibit B, p. 4). This would result in annual income of \$21,264. Therefore, Claimant is not income eligible for HMP coverage. Although the Department testified that Claimant's MA case was pending verification of her income, because her attested income is greater than the income limit for HMP eligibility, Claimant is not eligible for HMP and no income verifications are required. Michigan Department of Community Health, MAGI Related Eligibility Manual, § 7.2.

However, before closing Claimant's case due to ineligibility for HMP, the Department was required to conduct an ex parte review unless Claimant was ineligible for any MA coverage. BAM 220 (April 2015), p. 17; BAM 210 (April 2015), p. 1. When the ex parte review shows that an MA recipient is eligible for MA under another category, the Department must change the coverage. BAM 220, p. 17. When the ex parte review shows that a recipient may have continuing eligibility under another category, but here is not enough information in the case record to determine continued eligibility, the Department must send a verification checklist (including disability determination forms as needed) to proceed with the ex parte review. If the client fails to provide requested verifications or if a review of the information provided establishes that the recipient is not eligible under any MA category, the Department sends timely notice of MA case closure. BAM 220, p. 17. MA coverage continues until the client no longer meets the eligibility requirements for any other MA category. BAM 220, p. 17.

In this case, the Department concluded at the time of Claimant's redetermination that she was no longer income eligible for HMP. However, it acknowledges that it was aware that she was blind. A blind individual who meets the financial and nonfinancial eligibility criteria is eligible for SSI-related MA. In this case, the Department failed to establish that it considered Claimant's MA eligibility under SSI-related MA categories before closing her MA case effective April 1, 2015.

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 did not act 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 HMP case effective April 1, 2015;
2. Continue Claimant's HMP coverage until an ex parte review is completed;
3. Provide Claimant with MA coverage she is eligible to receive upon completion of the ex parte review, if any, providing Claimant with timely notice of any changes in MA coverage.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/21/2015**

Date Mailed: **5/21/2015**

ACE / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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.

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 48909-8139

cc:

[REDACTED]