

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-015021
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: [REDACTED]
County: Oakland-District 2
(Madison Heights)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

HEARING DECISION

Following Petitioner'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 [REDACTED], from Lansing, Michigan. [REDACTED], the Claimant, appeared on her own behalf. The Department was represented by [REDACTED], Assistance Payments Supervisor, and [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly determine Medical Assistance (MA) eligibility for Claimant's children?

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 [REDACTED], an MA application was filed requesting Healthy Michigan Plan Medicaid (MA-HMP) coverage only for Claimant. (Department Exhibit A, p. 8-16)
2. MA coverage was also processed and authorized for Claimant's children. (Uncontested)
3. Claimant requested the MA coverage for the children be canceled when she receive the MA cards for them in the mail. (Claimant Testimony)
4. The Department did not cancel the MA coverage for the children until [REDACTED]. (Department Exhibit A, p. 22)
5. On [REDACTED], Claimant filed a hearing request contesting the Department's actions. (Department Exhibit A, pp. 2-5)

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.

In this case, the evidence establishes that the Department erred by processing and approving MA for Claimant's children. The [REDACTED], MA application requested MA coverage only for Claimant. (Department Exhibit A, p. 8-16) There was no evidence MA was ever requested, let alone an application filed, for MA coverage for Claimant's children. Additionally, Claimant credibly testified that when she received the children's MA cards in the mail, she called the Department and requested a cancellation of the benefits. Claimant described the call in some detail, including how the worker initially encouraged her to keep the coverage because it was free, but eventually agreed to cancel the children's MA coverage. Claimant explained that the children have medical coverage through their father, therefore, there was no need for the children to have MA coverage.

The documentation supports the local Department office explanation that until recently they were not aware of the issue with coverage being active for Claimant's children in error. Claimant's written statement and the case comments summary indicate the Assistance Payments Worker became aware of the problem in June 2015. (Department Exhibit A, pp. 4 and 22) The local Department office further explained that they are only able to close the ongoing MA benefits for the children, and cannot cancel any past months of MA coverage. This ALJ has reviewed numerous Department policies including the BAM, BEM and Medicaid Provider Manual, and was not able to find any mechanism that would allow for the MA authorization for any past months to be canceled. For example, BAM 700, (May 1, 2014), p. 6 only states that recoupment of agency error overissuances for MA are not pursued.

This ALJ can only review the Department's action under the existing policies and has no equitable authority. As discussed during the hearing proceedings, there is no authority for this ALJ to order any reimbursement of the fees withheld from the child support payments due to the children having MA coverage. While the evidence establishes that the Department improperly approved MA for Claimant's children, which

was never applied for, and failed to cancel these benefits at Claimant requests when she received the children's MA cards in the mail, there is no remedy this ALJ can order to correct this error.

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 determined MA eligibility for Claimant's children.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**. However, there is no remedy this ALJ can ORDER to address the Department's error.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

[REDACTED]

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:

