

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004204
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: June 02, 2015
County: Genesee (2) Mc Cree

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. This is a telephone hearing held June 2, 2015. The Claimant is a Disabled Adult Child (DAC). Claimant's Guardian and Authorized Hearings Representative (AHR), [REDACTED], appeared and testified on her behalf. [REDACTED] Hearings Facilitator, and [REDACTED], Assistance Payments Worker, appeared and testified on behalf of the Department of Health and Human Services

ISSUE

Did the Department of Health and Human Services (Department) properly cancel Claimant's request for Medical Assistance (MA) benefits based upon the determination that Claimant failed to provide verification information in a timely manner.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was an MA and Food Assistance Program (FAP) benefits recipient.
2. On December 16, 2014, the Department alleges that Claimant's AHR was mailed a DHS 1010-Redetermination Form to review Medicaid coverage and Medicare cost sharing with a due date of January 2, 2015. The forms were generated and sent from Lansing.
3. On January 2, 2015, Claimant was mailed a DHS 2240-Mid Certification Contact Notice to review coverage for FAP and MA benefits with the information due by February 1, 2015.

4. On January 16, 2015, the Department caseworker closed the Medicaid coverage and the Medicaid cost sharing coverage for failure to provide verification information.
5. On January 16, 2015, the Department sent Claimant notice of case action that her MA and Medicaid Cost Sharing was closed for failure to return the DHS 1010.
6. On February 3, 2015, Claimant's AHR returned the DHS 2240-Mid Certification Form. The review was completed and the FAP remained open.
7. On March 9, 2015, Claimant's AHR filed a request for a hearing to contest the Department's negative action.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Health and Human Services (DHHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Pertinent Department policy states as follows:

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- Determine eligibility.
- Calculate the level of benefits.
- Protect client rights. BAM, Item 105, p. 1.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item.

Clients must completely and truthfully answer all questions on forms and in interviews.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information.

Clients must also cooperate with local and central office staff during quality control (QC) reviews. BAM 105, page 8.

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Specific penalties can be found in the applicable Bridges Eligibility Manual (BEM) and BAM items. BAM 105, page 9.

Delete the closure pending a hearing decision if the group requests a hearing during the pended negative action period to contest the auditor's finding of noncooperation. BAM 105, page 10.

Attempt to resolve the issue prior to the hearing; see **LOCAL OFFICE REVIEW** in BAM 600:

- If the group agrees to cooperate with the QC review and withdraws the hearing request, notify the auditor by telephone and follow-up memo.
- If the issue remains unresolved, request the auditor's attendance at the hearing to provide evidence. BAM 105, page 10

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary; see BAM 130 and BEM 702.

The local office must assist clients who ask for help in completing forms or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM 105, page 14.

Determine eligibility and benefit amounts for all requested programs. Supplemental Security Income (SSI) recipients, title IV-E recipients, special needs adoption assistance recipients, and department wards are automatically eligible for current MA; see BEM 117 and 150. BAM 105, page 17. A complete redetermination is required at least every 12 months. BAM 201, page 1.

An ex parte review (see glossary) 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 calendar days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220. BAM 220, page 1

Do **not** redetermine the following:

- Special N/Support; see BEM 113.
- Title IV-E recipients; see BEM 117.
- Special needs adoption assistance recipients; see BEM 117.
- Department wards; see BEM 117.
- Supplemental Security Income (SSI) recipients; see BEM 150.

Note: A review must be completed before closing an individual in one of these categories if the closure is for any reason other than total ineligibility for any MA (such as moved out of state or death). The review must consider eligibility in all other MA categories. BAM 220, page 3

Note: The DHS 2240-A may be used to complete an ex parte review of MA or certify a second 12-month MA period when the group has a 24-month FAP certification. BAM 220, page 10

Verifications are due the same date as the redetermination/review interview. When an interview is not required, verifications are due the date the packet is due.

Bridges allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. If the tenth day falls on a weekend or holiday, the verification would not be due until the next business day.

Bridges gives timely notice of the negative action if the time limit is **not** met. BAM 220, page 14

If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period.

Proceed as follows if the client takes the required action within 30 days after the end of the benefit period:

- Re-register the redetermination application using the date the client **completed** the process.
- If the client is eligible, prorate benefits from the date the redetermination application was registered. BAM 220, pages 8

In this case, Claimant is a Disabled Adult Child. She receives SSI because she is disabled and receives RSDI eligibility from her deceased father. She is categorically eligible for MA under all circumstances.

Claimant's AHR testified that she received paperwork in the mail for the recertification of Claimant's FAP and MA case, but did not receive the prior documentation for the Medicaid or Medicare Savings Program benefit, which the Department alleges was sent out to Claimant on December 16, 2014. When the AHR contacted the Eligibility Specialist, she was told only that she must file an appeal. She was not notified to reapply for benefits. She was not told that she should provide the redetermination information and the application would be re-registered on date of completion of the recertification process; which was at the latest on February 3, 2015. The caseworker at worst should have re-certified both FAP and MA on that date, because the DHS-2240-A Form, mailed out January 2, 2015, indicates that she had until February 1, 2015, to complete the process.

The Department witness testified that the redetermination paperwork was mailed from Lansing to Claimant's address. This witness cannot testify from personal knowledge that the document was actually sent to Claimant in the mail as the caseworker was not involved in the mailing of the documents. The MA case was cancelled without an ex parte review, which is required by Department policy. Policy explicitly states:

Do **not** redetermine the following:

- Special N/Support; see BEM 113.
- Title IV-E recipients; see BEM 117.
- Special needs adoption assistance recipients; see BEM 117.
- Department wards; see BEM 117.
- Supplemental Security Income (SSI) recipients; see BEM 150.

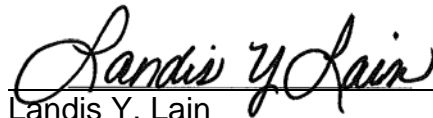
Claimant is an SSI benefit recipient. The Department's actions cannot be upheld under the circumstances.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it determined that the Claimant failed to provide verification information in a timely manner.

IT IS THEREFORE ORDERED THAT:

The Department's decision is **REVERSED**. The Department is **ORDERED** to re-instate Claimant's MA Application to February 2015 date of closure and re-determine Claimant's eligibility for MA and Medicaid Savings Plan benefits. If Claimant is otherwise eligible, the Department shall open an ongoing MA case for Claimant from February 3, 2015, forward.



Landis Y. Lain
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/5/2015**

Date Mailed: **6/5/2015**

LYL/jaf

cc:

