

**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.: 15-009894
Issue No.: 2001
Case No.: ██████████
Hearing Date: July 20, 2015
County: Wayne-District 76

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on July 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her daughter, ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Claimant and her daughter'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. On an unverified date in April 2015 Claimant submitted an application for MA benefits on which she alleged she was disabled.
2. Claimant was approved for MA under the Healthy Michigan Plan (HMP) for the months of April 2015 and May 2015.
3. Claimant's daughter had active and ongoing MA benefits under the HMP. (Exhibit A)
4. On May 7, 2015, Claimant reported to the Department that she received a \$2500 check from a trust in her daughter's name. (Exhibit B)

5. On May 18, 2015, the Department sent Claimant a Health Care Coverage Determination Notice informing her that effective June 1, 2015, she is no longer eligible for MA on the basis that she is not under 21, over age 65, blind, disabled, pregnant, or a caretaker of a minor child. The Notice also indicated that income of \$30,000 was used to determine her MA eligibility. (Exhibit C)
6. On June 1, 2015, Claimant requested a hearing disputing the Department's actions with respect to her MA benefits and her daughter's MA benefits.

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.

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>.

Claimant had been receiving MA under the HMP program. 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.

Claimant requested a hearing disputing the closure of her MA case and the processing of her daughter's MA benefits. Claimant stated that she thought her daughter's MA case had been closed. At the hearing, the Department stated that Claimant's daughter had

active and ongoing MA benefits under the HMP and that she continued to be approved for MA coverage. The Department presented an eligibility summary in support of its testimony. (Exhibit A).

With respect to Claimant's MA benefits, the Department stated that she applied for MA benefits in April 2015 and because she reported no income on her application, she was approved for HMP benefits, despite indicating a disability on the application. The Department testified that because Claimant reported income from a trust in the amount of \$2,500 monthly, she was no longer income eligible for HMP. (Exhibit B). The Department testified that it notified Claimant of the case closure effective June 1, 2015, by sending a Health Care Coverage Determination Notice. (Exhibit C). A review of the Notice establishes that the reason for intended action is not a case closure due to excess income as the Department stated, but rather, a case closure because Claimant is no longer eligible for MA on the basis that she is not under 21, over age 65, blind, disabled, pregnant, or a caretaker of a minor child. (Exhibit C).

BEM 503 provides that the Department is to count payments from a trust to a beneficiary as the beneficiary's unearned income. BEM 503 (July 2014), p. 34. In this case, Claimant testified that the check she received is from annuity funds resulting from a medical malpractice lawsuit and that funds are held in a trust. Claimant stated that the money in the trust is for her and her disabled adult daughter. A review of the check provided establishes that Claimant's daughter's name and the name of the trustee is listed at the top and that the check was made out to Claimant. (Exhibit B). Claimant testified that the check is made out in her name only because her daughter cannot cash the check due to her disability. Thus, based on the evidence presented, it was unclear who the beneficiary of the trust is and whose MA case the income from the trust needs to be budgeted for. As such, the Department has not established that Claimant had excess income and was ineligible for HMP based on her group size. 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.

In addition, before closing Claimant's case due to ineligibility for HMP based on excess income, the Department was required to conduct an ex parte review unless Claimant was ineligible for MA coverage under all available categories. 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 there 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 that Claimant submitted proof of the check received that she was no longer income eligible for HMP. However, the Department acknowledged that it was aware at the time of Claimant's application that she was alleging a disability. The Department confirmed that Claimant's eligibility for a disability or SSI related MA program was never determined. A disabled 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 June 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 processed Claimant's MA benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the processing of Claimant's daughter's MA benefits and **REVERSED IN PART** with respect to the closure of Claimant's MA case effective June 1, 2015.

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 June 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, providing Claimant with timely notice of any changes in MA coverage.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/12/2015**

Date Mailed: **8/12/2015**
ZB / 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]
[REDACTED]
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