

**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.: 15-012286
Issue No.: 3000 2001
Case No.: ██████████
Hearing Date: August 31, 2015
County: Washtenaw (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 31, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████ ██████████, manager, and ██████████, specialist.

ISSUES

The first issue is whether MDHHS took any negative actions concerning the Medical Assistance (MA) eligibility of Claimant's children

The second issue is whether MDHHS properly terminated Claimant's MA eligibility.

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 and her children were ongoing MA and Food Assistance Program (FAP) benefit recipients.
2. Claimant's MA eligibility was scheduled to expire beginning March 2015.
3. Claimant timely submitted all redetermination documents.
4. On April 23, 2015, MDHHS imposed a child support disqualification against Claimant.

5. On June 24, 2015, MDHHS ended the child support disqualification against Claimant.
6. On July 5, 2015, Claimant requested a hearing to dispute the termination of her MA eligibility, effective March 2015, unspecified actions taken to Claimant's children's MA eligibility, and an unspecified dispute concerning FAP eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing, in part, concerning FAP eligibility. Claimant's hearing request did not identify the dispute.

Claimant testified that she no longer had a FAP benefit dispute, either to her current or past eligibility. Claimant further testified that she wished to withdraw her hearing request concerning FAP eligibility. MDHHS agreed to the withdrawal of Claimant's hearing request. Claimant's hearing request will be dismissed concerning FAP eligibility.

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

Claimant requested a hearing, in part to dispute an alleged termination of her children's MA eligibility. Claimant testified that she does not recall receiving a notice of termination, however, when she takes her children to the doctor, she was told that her children do not have Medicaid.

MDHHS responded that Claimant's children have received uninterrupted Medicaid coverage. MDHHS presented Medicaid eligibility documents (Exhibits 3-6) for each of Claimant's two children. The documents verified "Full Medicaid Coverage" for all months

in 2015 for each of Claimant's children. The documents were persuasive proof that Claimant's children had no lapse in Medicaid coverage.

The Michigan Administrative Hearing System may grant a hearing about any of the following (BAM 600 (June 2015), p. 4):

- denial of an application and/or supplemental payments;
- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service
- restrictions under which benefits or services are provided;
- delay of any action beyond standards of promptness; or
- the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).

A hearing may not take place without any known adverse action. No such action was established concerning Claimant's children's MA eligibility. Claimant's hearing request will be dismissed concerning this issue.

Claimant also requested a hearing, in part, to dispute her MA eligibility. Presented Medicaid Eligibility documentation (Exhibits 1-2) verified that Claimant has not received Medicaid since February 2015.

Claimant's MA eligibility was scheduled to expire in February 2015. MDHHS conceded that Claimant timely submitted redetermination documents and that Claimant's MA eligibility should have not have expired without performing an eligibility determination. An order that MDHHS process Claimant's MA eligibility beginning March 2015 was complicated by an issue concerning child support.

The head of household and the parent of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (10/2010), p. 1. The support specialist (i.e. OCS) determines cooperation for required support actions. *Id.*, p. 8.

For MA benefits, failure to cooperate without good cause results in member disqualification. *Id.*, p. 1. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. *Id.*

MDHHS determined Claimant to be non-compliant with obtaining child support on April 13, 2015. MDHHS conceded that Claimant became cooperative with obtaining child support on June 24, 2015. Thus, Claimant's MA eligibility was not disputed for any months except from April 2015 through June 2015.

Consideration was given to deciding whether Claimant was or was not child support compliant for the disputed months. Instead, the analysis will focus on whether MDHHS complied with their procedural requirements.

There are two types of written notice: adequate and timely. BAM 220 (1/2014), p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). *Id.* A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. *Id.*, p. 4. The present case concerns timely notice.

Concerning MA closure for child support, MDHHS conceded that timely written notice of Claimant's MA eligibility termination never occurred. Without proper written notice, a disqualification of child support is improper. One reason to support this conclusion is that Claimant could have theoretically complied with child support cooperation before closure had MDHHS provided Claimant with timely notice.

It is found that MDHHS failed to give Claimant proper written notice of a child support disqualification. MDHHS will be ordered to delete the disqualification because Claimant had already complied with child support requirements and MDHHS is barred from imposing retroactive penalties due to the lack of written notice.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant withdrew her hearing request concerning FAP eligibility. It is further found that MDHHS did not take an adverse action concerning Claimant's children's Medicaid eligibility. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Claimant's MA eligibility. It is ordered that MDHHS perform the following actions:

- (1) redetermine Claimant's MA eligibility, effective March 2015, subject to the following findings:
 - a. Claimant timely submitted all redetermination documentation;
 - b. MDHHS may not impose a previously imposed child support disqualification due to the lack of written notice of termination; and
- (2) delete Claimant's child support disqualification from April 2015 through June 2015.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **9/1/2015**

Date Mailed: **9/2/2015**

GC/tm

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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