

**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.: 15-015659
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: November 25, 2015
County: Wayne (76) Gratiot/7 Mile

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 November 25, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payment's Worker.

ISSUE

Did the Department properly determine the Petitioner's Medical Assistance (MA) program correctly based upon information provided during the July 2015 redetermination?

FINDINGS OF FACT

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

1. The Petitioner was an ongoing recipient of Medical MA.
2. The Department issued a Health Care Coverage Determination Notice on August 7, 2015, advising the Petitioner that she was eligible as of September 1, 2015, ongoing for Full Coverage. Exhibit A.
3. The Department's Eligibility Summary noted that Petitioner was eligible for MA Low Income Family (LIF) through January 1, 2015, and then Healthy Michigan Plan (HMP) from February 2015. Exhibit B.

4. A redetermination was held in July 2015; and the Department issued a Health Care Coverage Determination Notice as of September 1, 2015, placing the Petitioner on Full Coverage. The Notice did not indicate what MA program the Petitioner was entitled to. The Department could not explain why the Petitioner was eligible for HMP rather than LIF. Exhibit A.
5. On February 1, 2015, the Petitioner was found eligible for HMP ongoing.
6. The Petitioner requested a hearing on September 8, 2015, seeking the Department to correct her health care coverage.

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 Petitioner sought to have co-pays processed from February 2015 through April 2015, which she received for the first time August 6, 2015. Petitioner also sought the Department to correct her coverage from HMP to LIF from February 2015 through September 2015. The Petitioner also testified that she had children. The Department was unable to explain why the Department placed the Petitioner on HMP rather than LIF. The Department must determine the Petitioner's eligibility for MA based upon the MA program coverage most favorable to the Petitioner.

BEM 105 provides:

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income.

However, clients are not expected to know such things as:

- Ineligibility for a FIP grant does not mean MA coverage must end.

- The LIF category is usually the most beneficial category for families because families who become ineligible for LIF may qualify for TMA or Special N/Support.
- The most beneficial category may change when a client's circumstances change.
- **Therefore, you must consider all the MA category options in order for the client's right of choice to be meaningful. BEM 105 (October 1, 2014) p. 2**

Because the Department should have considered the most beneficial coverage, and its testimony did not establish that it considered best coverage, and could not explain why Petitioner was deemed eligible for HMP rather than Low Income Family, the Department did not meet its burden of proof.

As regards Petitioner's medical bills, because it is unknown what MA program she is eligible for, no action or decision can be made on whether the bills should have a co-pay attached to the expenses incurred.

Because the Petitioner has 90 days to request a hearing and the hearing was requested on September 8, 2015, the Department must effectuate any MA program change, if any, after a review of the July 2015 redetermination, retroactively to 90 days prior to the hearing request. BAM 600 (October 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it could did not demonstrate how it determined Petitioner's MA eligibility to be HMP rather than LIF.

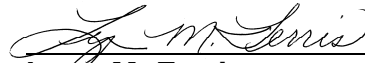
DECISION AND ORDER

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. The Department shall re-process the July 14, 2015, redetermination and determine the Petitioner's MA eligibility in accordance with Department policy.
2. The Department shall issue a Health Care Coverage Determination Notice and advise the Petitioner as to its determination regarding her eligibility and specifically advise which MA program she is determined eligible for, Group 2 LIF or HMP.

3. The Department shall correct if necessary any change in MA coverage made to the Petitioner's health care coverage retroactive 90 days from the Hearing request received by the Department dated September 8, 2015.
4. The Department shall assist the Petitioner in determining who Petitioner should contact regarding the co-pays medical bills Petitioner received in August 2015, which were not paid by her health care plan.



Lynn M. Ferris

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **12/4/2015**

LMF/jaf

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:

