

**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.: 15-023813
Issue No.: 2001; 2004
Agency Case No.: [REDACTED]
Hearing Date: February 22, 2016
County: WAYNE-DISTRICT 17

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 February 22, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department was represented by [REDACTED], Hearings Facilitator.

ISSUES

Did the Department properly process Petitioner's step-son's Medical Assistance (MA) application dated [REDACTED]?

Did the Department properly close Petitioner and her spouse's MA benefits effective [REDACTED]?

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], Petitioner's step-son, Jude Scott (a minor child and hereinafter referred to as "Child A"), applied for MA benefits.
2. The Department failed to process Child A's MA application.
3. Petitioner and her spouse were ongoing recipients of MA benefits.
4. Due to Child A's MA application, the Department redetermined Petitioner and her spouse's MA eligibility.

5. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL), which was due back by [REDACTED]. See Exhibit A, p. 4. The VCL requested proof of Petitioner and her spouse's wages. See Exhibit A, p. 4.
6. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying Petitioner and her spouse were no longer eligible for MA benefits effective [REDACTED] because they are not under 21, pregnant, or a caretaker of a minor child in the home, not over 65 (aged), blind, or disabled. See Exhibit A, pp. 5-6. The determination notice also indicated that Petitioner's annual income was \$16,320 and her spouse's annual income was \$46,728. See Exhibit A, p. 6.
7. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, p. 2.

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.

Preliminary matter

Petitioner also disputed her Food Assistance Program (FAP) benefits. However, a review of Petitioner's hearing request discovered that she is only disputing the MA benefits. See Exhibit A, p. 2. As such, the undersigned lacks the jurisdiction to address Petitioner's dispute with the FAP benefits. See BAM 600 (October 2015), pp. 1-6. Petitioner was notified that she can request another hearing to dispute her FAP benefits. See BAM 600, pp. 1-6.

Child A's MA application

First, Petitioner argued that the Department failed to process Child A's MA application dated [REDACTED]. The Department failed to present any evidence that it processed the MA application dated [REDACTED]. The Department sent

Petitioner a determination notice dated [REDACTED], notifying Petitioner, her spouse, and another child of their MA eligibility. See Exhibit A, pp. 5-6. However, this determination notice did not address Child A's MA eligibility. Furthermore, the Department presented a FMA – Individual Notice Reasons document which indicated that Child A was not eligible for MA benefits effective [REDACTED]. See Exhibit A, p. 11. However, Child A's application was dated for the benefit period of November 2015, not January 2016.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (July 2015), p. 17. Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110 (July 2015), p. 4. The Department must register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (October 2015), p. 15. For MA applications, the Department certifies the program approval or denial of the application within 45 days. BAM 115, p. 15. However, there are exceptions to these benefits programs for processing times, which are described as follows: 90 days for MA categories in which disability is an eligibility factor. BAM 115, p. 15. The SOP can be extended 60 days from the date of deferral by the Medical Review Team (MRT). BAM 115, pp. 15-16.

Moreover, if the group is ineligible or refuses to cooperate in the application process, the Department must certify the denial within the standard of promptness and also send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, pp. 22-23. Medicaid denials receive a DHS-1606, Health Care Coverage Determination Notice. BAM 115, p. 23. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 23. The Department sends the DHS-1606 detailing Medicaid approvals. BAM 115, p. 23.

Based on the foregoing information and evidence, the Department failed to properly process Child A's MA application dated [REDACTED]. The evidence presented that the Department failed to process Child A's application in accordance with Department policy. See BAM 105, p. 17; BAM 110, pp. 4 and 19; and BAM 115, pp. 15-23. The Department will reprocess the MA application.

MA closures

Second, Petitioner also disputed the closure of her and her spouse's MA benefits effective [REDACTED].

On [REDACTED], the Department sent Petitioner a determination notice notifying Petitioner and her spouse were no longer eligible for MA benefits effective [REDACTED].

█ because they are not under 21, pregnant, or a caretaker of a minor child in the home, not over 65 (aged), blind, or disabled. See Exhibit A, pp. 5-6. The determination notice also indicated that Petitioner's annual income was \$16,320 and her spouse's annual income was \$46,728. See Exhibit A, p. 6.

Additionally, the Department indicated that Petitioner and her spouse were ineligible for MA benefits due to excess income. The Department's hearing summary indicated that Petitioner failed to return the verification requested by █ and that she has excess income. See Exhibit A, p. 1. However, the determination notice failed to indicate that one of the denial reasons was excess income. The Department presented Petitioner and her spouse's FMA – Individual Notice Reasons documents, which indicated they were not eligible based on excess income. See Exhibit A, pp. 7-10. Nonetheless, for the reasons stated below, the Department improperly closed Petitioner and her spouse's MA benefits.

First, the Department's hearing summary indicated that Petitioner failed to return the verification requested by █. See Exhibit A, p. 1. However, the Department failed to provide Petitioner 10 days to submit the necessary verifications in accordance with Department policy.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130 (July 2015), p. 7. The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8.

In the present case, the Department did not allow Petitioner 10 calendar days to provide the verification requested. The Department issued the VCL on █ and gave her until █ to supply the verifications. See Exhibit A, p. 4. At first glance, the Department gave the Petitioner 10 calendar days to provide the verifications. However, the Department issued the closure notice on the same day as the VCL, which was █. See Exhibit A, p. 5. The Department should have issued the case action notice until after the VCL due date (i.e., █). Thus, the Department did not properly provide Petitioner with the 10 calendar days she is allotted for the verifications. See BAM 130, pp. 7-8. Petitioner had the income verifications present with her during the hearing and disputed the calculations of her and her spouse's income.

Second, the determination notice dated █, indicated that she and her spouse were not eligible for MA benefits because they were not a caretaker of a minor child. See Exhibit B, pp. 5-6. However, Petitioner and her spouse are caretakers of a minor, Child A.

Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, Plan First!, and Adult Medical Program is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105 (October 2014), p. 1.

Based on the foregoing information and evidence, the Department improperly closed Petitioner and her spouse's MA benefits effective [REDACTED]. The Department's hearing summary appeared to indicate that there was a glitch in the system and is the reason why the determination notice did not list the proper denial reasons. See Exhibit A, p. 1. Nonetheless, the undersigned is reviewing the evidence presented in front of him. Petitioner and her spouse are caretaker of a minor and the determination notice improperly concluded that they were not. See Exhibit A, pp. 5-6.

Third, the Department indicated that Petitioner and her spouse are ineligible for MA benefits due to excess income. However, the determination notice failed to indicate such a denial reason.

A positive action is a Michigan Department of Health & Human Services (MDHHS) action to approve an application or increase a benefit. BAM 220 (October 2015), p. 1. A negative action is a MDHHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220, p. 1. This includes an increase in a post-eligibility patient-pay amount for MA or an increase in the client pay for a special living arrangement. BAM 220, p. 1.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220, p. 2. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220, p. 2. There are two types of written notice: adequate and timely. BAM 220, p. 2. A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

BAM 220, p. 1.

In the present case, the determination notice failed to specify that the closure was also based on excess income. The Department failed to provide Petitioner proper notice of the case closure in accordance with Department policy. See BAM 220, pp. 1-2.

For the above stated reasons, the Department did not act in accordance with Department policy when it improperly closed Petitioner and her spouse's MA benefits effective [REDACTED]. The Department will redetermine Petitioner and her spouse's MA eligibility effective [REDACTED].

DECISION AND ORDER

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 (i) the Department did not act in accordance with Department policy when it failed to process Child A's MA application dated [REDACTED]; and (ii) the Department did not act in accordance with Department policy when it improperly closed Petitioner and her spouse's MA benefits effective [REDACTED].

Accordingly, the Department's MA 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. Re-register and re-process Child A's MA application dated [REDACTED], [REDACTED];
2. Issue supplements to Child A for any MA benefits he was eligible to receive but did not;
3. Redetermine Petitioner and her spouse's MA eligibility effective [REDACTED];
4. Issue supplements to Petitioner and her spouse for any MA benefits they were eligible to receive but did not from [REDACTED], ongoing; and
5. Notify Petitioner of its decision.



Eric Feldman

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

Date Signed: **MARCH 1, 2016**

Date Mailed: **MARCH 1, 2016**

EF / hw

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:

