

**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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MAHS Reg. No.: 15-020794
Issue No.: 2001
Agency Case No.: ██████████
Hearing Date: January 21, 2016
County: Wayne-District 18

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 January 21, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process and close Petitioner's Medical Assistance (MA) case?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of MA benefits under the Group 2 Caretaker Relatives (G2C) category. (Exhibit B)
2. Petitioner is ██████ years old and is the caretaker of her ██████ year old grandson.
3. On October 3, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective November 1, 2015, her MA case would be closed on the basis that she is not under 21, pregnant, or a caretaker of a minor child in her home, that she is not age 65, blind or disabled. (Exhibit A)
4. On October 29, 2015, Petitioner requested a hearing disputing the Department's closure of her MA case.

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 evidence at the hearing established that Petitioner lived with her ■-year-old grandson who is still attending high school. The parent or caretaker who lives with a dependent child is eligible for MA under the Group 2 Caretaker (G2C) program. BEM 135 (October 2015), p. 1. To be a dependent child, a child must meet the following age and school requirement: (i) he must be under age 18 or (ii) age 18 and a full-time student in a high school or the equivalent level of vocational or technical training and expected to complete his educational or training program before age 19. BEM 135 (October 2015), pp. 1-3. Because Petitioner's grandson was ■■■■■, he is not considered a dependent child and Petitioner is not eligible for MA under the G2C program.

BEM 135 further provides, however, that an ex parte review 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. BEM 135, p. 2. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories. BEM 135, p. 2; See BAM 115 and 220. A client is entitled to the most beneficial MA category, which is the category which results in eligibility or the least amount of excess income. BEM 105 (October 2014), p. 2. 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 (October 2015), p. 17.

HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) 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. MPM, Healthy Michigan Plan, § 1.1. An individual is eligible for HMP if her household's income does not exceed 133% of the FPL applicable to the individual's group size. A

determination of group size under the MAGI methodology requires consideration of the client's tax status and number of dependents.

In this case, the Department failed to establish that it properly completed an ex parte review and considered Petitioner's eligibility for MA under all MA categories, in particular the Healthy Michigan Plan (HMP) prior to closing her MA case. Although the Department stated that Petitioner may not be eligible for HMP based on excess income and a household size of one, the Department did not provide any documentation to support its testimony, as Petitioner may have a household size of two if her grandson is considered her dependent for tax purposes.

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 closed Petitioner's MA case prior to completing a thorough ex parte review to determine her eligibility for MA under all categories.

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. Reinstate Petitioner's MA case effective November 1, 2015;
2. Complete an ex parte review to determine Petitioner's MA eligibility for all MA programs;
3. Provide Petitioner with MA coverage under the most beneficial category from November 1, 2015, ongoing, in accordance with Department policy; and
4. Notify Petitioner of its decision in writing.



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

Date Signed: **1/26/2016**

Date Mailed: **1/26/2016**

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