

**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.: 15-021852
Issue No.: 2001
Agency Case No.: ██████████
Hearing Date: February 22, 2016
County: Wayne-District 15
(Greydale)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on February 22, 2016, from Detroit, Michigan. Petitioner appeared and represented himself. The Department was represented by ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Medicaid (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 Healthy Michigan Program (HMP).
2. On September 18, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that he was ineligible for MA for November 1, 2014 ongoing because he was not under 21 or over 65, pregnant, the caretaker of a minor child in his home, blind or disabled, and annual income of \$6,000 was used to calculate his eligibility (Exhibit E).
3. On November 17, 2015, the Department received Petitioner's request for hearing disputing the Department's actions concerning his 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), Department of Health and Human Services Medicaid Provider Manual (MPM), 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.

The September 18, 2015 Health Care Coverage Determination Notice advised Petitioner that he was ineligible for MA because he was not under 21 or over 65, pregnant, the caretaker of a minor child in the home, blind or disabled and that his income-eligibility for MA was based on annual income of \$6000. After the hearing, a closer review of the Notice showed that Petitioner was deemed ineligible for MA for November 1, 2014 ongoing. However, Petitioner contended that he was receiving MA coverage at the time the Notice was sent, and the Department was unable to dispute Petitioner's MA status at the time Notice was sent. Based on the Department's testimony that Petitioner's case was reinstated as of November 1, 2015, it appears that Petitioner had ongoing MA.

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 Health and Human Services, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1, *available at* <http://www.mdch.state.mi.us/dch-medicaid/manuals/MedicaidProviderManual.pdf>.

In this case, Petitioner confirmed that he was not under age 19 or over age 65, blind, disabled, or the caretaker of a minor child. Therefore, he was only eligible for MA if he satisfied the conditions for HMP eligibility. At the hearing, the Department explained that, although Petitioner may have been approved for HMP, after he filed his November 17, 2015 hearing request, it became aware that Petitioner had filed an August 21, 2015 application for food assistance program (FAP) benefits and had identified employment that had not been previously verified for MA purposes. The Department explained that it reinstated Petitioner's case effective November 1, 2015, sent Petitioner a Verification

Checklist (VCL) on November 24, 2015 requesting by December 4, 2015 verification of all earned and unearned income for the last 30 days and included Verification of Employment forms for five employers ([REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]), and put Petitioner's MA case in "pending" status while it awaited the verifications.

Department policy provides that the Department sends a case action notice concerning a clients' MA case when the client indicates refusal to provide a verification or the time period given has elapsed. BAM 130 (July 2015), p. 8. Timely notice is required to reduce or terminate MA benefits. BAM 130, p. 8. Timely notice means that the action taken by the Department is effective at least 12 calendar days following the date of the Department's action. BAM 220 (October 2015), p. 12.

In this case, the Department did not act in accordance with Department policy when it processed Petitioner's MA case. It sent Petitioner a VCL only after his case was closed, resulting in a lack of timely notice of the MA case closure. Although the Department argued that it had reinstated Petitioner's MA case effective November 1, 2015 and his case was "pending" while it awaited the requested verifications, the Department acknowledged that Petitioner had not received any MA benefits since November 1, 2015. As a result, Petitioner did not receive any benefits while the VCL was being processed.

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.

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. Provide Petitioner with HMP coverage from November 1, 2015 ongoing; and
3. Provide Petitioner with timely notice of any changes to his MA case.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **3/4/2016**

Date Mailed: **3/4/2016**

ACE / 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]