

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2008-24970
Issue No: 2019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 25, 2009
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on June 25, 2009.

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

- (1) On or about July 2008, claimant received a letter from the department stating she owed the department [REDACTED] due to a department error in computing her patient pay amount.
- (2) Claimant filed a proper and timely hearing request on the matter.

(3) The department presented no evidence in support of the alleged department action.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department manuals provide the following policy statements and instructions for caseworkers:

REQUESTS

All Programs

All clients have the right to request a hearing. Either of the following people have authority to exercise this right by signing a hearing request:

- An adult member of the eligible group.
- The client's authorized hearing representative (AHR).

Requests for a hearing must be made in writing and signed by one of the persons listed above. The request must bear a signature. Faxed requests that have a signature or photo copies with a signature are acceptable. State Office of [Administrative Hearings and Rules \(SOAHR\)](#) will deny requests signed by unauthorized persons and requests without signatures.

Only SOAHR may deny a request for a hearing. Accept and forward all hearing requests to them.

For all inappropriate requests and/or requests filed more than 90 days from the date of the notice of case action, do all of the following:

Complete an DHS-3050, Hearing Summary, stating:

- Why you believe the request should not be heard.
- Note the request was received after 90 days from the date of the notice of case action (attach a copy of the notice).

Forward the hearing request and the summary to SOAHR.

SOAHR will inform the client (referred to by administrative hearings as the claimant), the AHR and the hearings coordinator if the request is denied.

Complete an DHS-3050, Hearing Summary, if the dispute is not resolved at a prehearing conference. All case identifiers and notations on case status must be complete. See [RFF3050](#).

The narrative must include all of the following:

- Clear statement of the case action, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the AHR or, if none, the client.
- Description of the documents the local office intends to offer as exhibits at the hearing.

All Programs

The local office and AHR or, if none, the client will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. In most cases, the AHR or, if none, the client and local office staff will be together in the hearing room and will speak into a speaker telephone. The ALJ will be on the other end of the phone line.

Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. The hearing summary, or highlights of it, may be read into the record at this time. The hearing summary may be used as a guide in presenting the evidence, witnesses and exhibits that support the Department's position. Always include the following in planning the case presentation:

An explanation of the action(s) taken.

- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights.

Both the local office and the AHR or, if none, the client must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence.

Program Administrative Manual (PAM) 600.

MA

42 CFR 431.200-.250

42 USC 1396r-5

July 25, 2009, the State Office of Administrative Hearings and Rules received written documentation from claimant that her daughters, [REDACTED], and [REDACTED] were authorized to act on her behalf for any matter relating to her MA. Accordingly, hearing request signed by [REDACTED] and [REDACTED] is appropriate and valid. As such, the matter of department overpayments to the claimant is properly within the jurisdiction of the Administrative Law Judge. Finding of Fact 2.

The Hearing Summary (DHS-3050 completed by the department states that it has not acted on the “agency error” claimant refers to in her hearing request. However, claimant received notice of overpayment indicating that some department action has been taken. At hearing, the department did not present testimony, MA budgets, income proofs, or any other documentary evidence to establish that claimant was overpaid, received benefits to which she

was not entitled, or is not eligible for MA benefits. Finding of Fact 3. Accordingly, the department has not met its burden of proof and its actions can not be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services did not act in compliance with department policy when it determined claimant's owes the department for overpayments due to agency error.

Accordingly, the department's action is **HEREBY REVERSED**.

/s/ _____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 30, 2009

Date Mailed: June 30, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JAB/db

cc:

