#### STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARING SYSTEM ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

## IN THE MATTER OF:



Reg. No.: 2012-55169 Issue No.: Case No.: Hearing Date: County:

2018 October 8, 2012 Wayne (82)

# ADMINISTRATIVE LAW JUDGE: Susan C. Burke

# **HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's reques t for a hearin g. After due notice, a telephone hearing was held on October 8, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Conservator, and Participants on behalf of the Depar tment of Human Services (Department) included ES, and

#### ISSUE

Did the Department properly process Cla Assistance?

imant's redetermination for Medical

# FINDINGS OF FACT

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

1. Cla imant applied for benefits received benefits for:

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Family Independence Program (FIP). Food Assistance Program (FAP).

Medical Assistance (MA).

- Adult Medical Assistance (AMP).
- State Disability Assistance (SDA).
- Child Development and Care (CDC).

- 2. Pursuant to a redetermination, on July 15, 2010, the Departm ent sent Claimant a Verification Checklist (VCL) in care of a nursing home, but not in care of Claimant's conservator.
- 3. The Department was awar e that Claimant had been appointed a conservator at the time of the redetermination.
- 4. The Department did not send Claimant's conservator a notice of denial of Claimant's redetermination.
- 5. Claimant's conservator requested a hearing, protesting t he Department's failure t o act on Claimant's MA redetermination of June, 2010.

## CONCLUSIONS OF LAW

Department policies are contained in the Br idges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Medic al Assistance (MA) program is est ablished by the Title XIX of the Socia I Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (f ormerly known as the Family Independenc e Agency) administers the MA pr ogram pursuant to MCL 400.10, *et seq*., and MC L 400.105.

In the present case, pursuant to a June 201 0 redetermination, the Department issued a VCL dated July 15, 2010 to Cl aimant, in care of a nursi ng home, inst ead of t o Claimant's conservator. In addi tion, Claimant's conservator did not receive a denial of the MA redetermination. The Department was not able to produce a written denial of the June 2010 redetermination at the hearing. It is logical to conclude that the Department failed to protect Claimant's rights, as directed by BAM 105.

Based upon the abov e Findings of Fact and Conclus ions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the D epartment improperly processed Claimant's June 2010 redetermination for MA.

## **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department i did act properly. i did not act properly.

Accordingly, the Department's AMP FIP FIP AP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

- 1. Initiate reinstatement of Claimant's MA case, effective June 1, 2010.
- 2. Initiate reprocessing of Claimant's June 2010 MA redetermination.
- 3. Issue a written notice of approval/deni al of the redetermination to Claimant's conservator.

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Susan C. Burke Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: October 15, 2012

Date Mailed: October 15, 2012

**NOTICE:** Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order . MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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 ti mely request for rehearing was made, within 30 days of the receipt of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, math ematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative Hearings

Re consideration/Rehearing Request P. O. Box 30639 Lansing, Michigan 48909-07322

SCB/ctl

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