

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

New Reg. No.: 201341955
Old Reg. No.: 201314542, 201248060
Issue No.: 2005, 3025
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County DHS: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 24.287(1) and 1993 AACS R 400.919 upon the request of the Claimant.

ISSUE

Must the Department re-determine Claimant's eligibility for Medical Assistance (MA)?

FINDINGS OF FACTS

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

1. On [REDACTED] Administrative Law Judge (ALJ), Jan Leventer, issued a Hearing Decision in which the ALJ affirmed the Department of Human Services's (DHS) MA eligibility determination "for the reasons stated on the record."
2. On [REDACTED], the Michigan Administrative Hearing System (MAHS) for the Department of Human Services received a Request for Reconsideration submitted by Claimant's representative.
3. MAHS granted the Request for Reconsideration.
4. Findings of Fact 1-4 from the Hearing Decision mailed on [REDACTED] are adopted as my Findings as Fact.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR).

The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies can be found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

Paragraphs 1-11 on pages 1 & 2 under the Conclusions of Law from the Hearing Decision mailed on November 15, 2012 are adopted as my Conclusions of Law.

In this case, Claimant disputed the Department's determination that she was not eligible for MA for the months of September through [REDACTED]. The issue before the assigned Administrative Law Judge (ALJ) was whether this determination was in accordance with the applicable law and policy. The Department determined that Claimant was not eligible for MA for the months in question for failure to submit verifications in a timely manner. After a hearing was filed to protest the eligibility determination, the Department argued that the Hearing Request was not filed in a timely manner. Therefore, the assigned ALJ had to address the issue regarding the timeliness of Claimant's Hearing Request before dealing with the substantive issue.

At the conclusion of the hearing, the assigned ALJ stated that she would be determining whether Claimant had an ongoing MA case or whether she filed a new MA application for the time period in question. Additionally, the ALJ stated that she would determine whether Claimant's hearing request was filed in a timely manner; and it would depend on whether Claimant's Authorized Representative received the Notice of Case Action. Lastly, the ALJ stated on the record that it appears there were Department errors in determining Claimant's MA eligibility; and, therefore, she would be reversing the Department's MA eligibility determination and ordering the Department to either reinstate Claimant's MA case or MA application for the months in question.

The assigned ALJ denied the Department's request to dismiss Claimant's hearing based on a finding that proper notice of the negative MA action was not sent to Claimant's Authorized Representative. The ALJ found, based on the evidence on the record, that when Claimant's Authorized Representative learned of the closure of the MA case, he filed a request for hearing immediately.

Secondly, the assigned ALJ found that there was no failure to cooperate in providing needed verification of burial expenses/pre-paid funeral contract as the Department had already received this verification prior to requesting it.

After the hearing, the ALJ decided to go a step further and determined that Claimant exceeded the applicable MA asset limit. Instead of reversing the Department's MA action like she said she was going to do, she affirmed it. However, Claimant's Authorized Hearing Representative did not have an opportunity to provide any evidence to rebut the determination of the value of Claimant's countable assets for MA purposes at the hearing, and this issue was not before the assigned ALJ. Therefore, the ALJ's denial of MA due to excess assets cannot be upheld at this time.

Lastly, during the hearing, the assigned ALJ stated that Claimant's MA case would be reinstated for the months in question. However, the Department cannot authorize MA benefits to a person who is not otherwise eligible to receive them. Therefore, the Department must determine Claimant's MA eligibility for the time period in question in accordance with the applicable law and policy.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusion of law, decides that the Department must determine Claimant's eligibility for MA for the time period in question, beginning [REDACTED], in accordance with the applicable law and policy.

IT IS THEREFORE ORDERED, that the Department's MA denial for the period of [REDACTED] based on a failure to cooperate in providing needed verification is **REVERSED**. The Department shall determine Claimant's MA eligibility beginning [REDACTED], in accordance with the applicable law and policy.

/s/
Marya A. Nelson-Davis
Administrative Law Judge Manager
for Maura Corrigan, Director
Department of Human Services

Date Signed: 05/02/2013

Date Mailed: 05/03/2013

NOTICE: The law provides that within 30 days of receipt of the above Reconsideration Decision and Order, the claimant may appeal it to the circuit court for the county in which he/she lives.

MAND/kl

cc:

[REDACTED]