

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-2509
Issue No.: 3014, 2000, 2012
Case No.: [REDACTED]
Hearing Date: November 6, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant'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. After due notice, a telephone hearing was held on November 6, 2013, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED], testified on behalf of Claimant and appeared as a translator for Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether Claimant's hearing request involved a dispute of Medical Assistance (MA) benefits for herself.

The second issue is whether DHS properly failed to evaluate Claimant's daughter's Medical Assistance (MA) eligibility.

The third issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) group composition.

FINDINGS OF FACT

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

1. On [REDACTED]/13, Claimant applied for MA benefits for her daughter.
2. Claimant was an ongoing FAP benefit recipient.

3. Claimant was a member of a household that included a 19-year-old child and a 13-year-old child.
4. DHS failed to process Claimant's application requesting MA for her daughter.
5. On an unspecified date, DHS processed Claimant's FAP benefit eligibility, in part, based on a group composition that excluded Claimant's daughter.
6. On [REDACTED]/13, Claimant requested a hearing to dispute FAP benefit eligibility and the failure by DHS to process her daughter's MA benefit eligibility.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant testified that she wanted the administrative hearing to address an MA benefit termination of her Medicaid eligibility. Claimant testified that the termination notice was sent by DHS after she requested a hearing.

The administrative hearing dated [REDACTED]/13 was tied to Claimant's hearing request dated [REDACTED]/13. Claimant is not entitled to administrative review for DHS actions that occurred after the hearing request. Claimant was advised that she could request another hearing to specifically address the closure of her Medicaid eligibility.

Claimant also requested a hearing to dispute an alleged failure by DHS to process her daughter's Medicaid eligibility. Claimant alleged that her daughter submitted an application to DHS on [REDACTED]/13 requesting MA benefits and that DHS has yet to process the application.

DHS is to certify program approval or denial of the application within 45 days. BAM 115 (7/2013), p. 15. It was not disputed that it has been longer than 45 days since Claimant submitted an application to DHS. The only dispute was whether Claimant submitted an application to DHS on [REDACTED]/13.

Claimant testified that she submitted the application in response to her specialist's statement that her daughter was old enough (19 years old) that she would have to submit an application for her own Medicaid. Claimant also sounded fairly certain of the date of application, even noting the date of submission in her hearing request. Claimant

also testified that she submitted the application through the DHS drop-box. The details and consistency of Claimant's testimony made Claimant's testimony appear credible.

The testifying DHS specialist responded that she never received an MA benefit application from Claimant's daughter. The specialist also stated that she would attempt to find the application and conceded that it could be in her mailbox. The specialist's concession did not evoke a feeling of high confidence that the specialist did not misplace or ignore Claimant's application. If a specialist cannot state with more certainty that a four-month-old application is not in the specialist's mailbox, that does not bode well for assurances that DHS did not receive Claimant's application. Based on the presented evidence, it is found that Claimant submitted an MA benefit application to DHS on [REDACTED]/13.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute a failure by DHS to correctly process her FAP eligibility. It was not disputed that DHS did not factor Claimant's daughter in Claimant's FAP eligibility since at least [REDACTED]/2013; Claimant restricted her FAP dispute to the group composition issue.

Claimant testified that she reported to DHS that her daughter was in Claimant's household, on or shortly before [REDACTED]/13. The failure by DHS to include Claimant's daughter in a FAP benefit determination would be consistent with the finding that DHS failed to process her daughter's MA application. It is found that Claimant reported that her daughter was a household member and FAP group composition member on 6/26/13.

A member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. BEM 550 (7/2013), p. 4. Based on this policy, DHS should have affected Claimant's FAP eligibility beginning with benefit month [REDACTED]/2013.

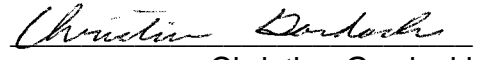
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to properly an MA benefit application or process Claimant's FAP benefit eligibility. It is ordered that DHS perform the following actions:

- (1) register Claimant's daughter's MA benefit application dated [REDACTED]/13;

- (2) initiate redetermination of Claimant's FAP eligibility, effective [REDACTED]/2013, subject to the finding that Claimant reported to DHS on [REDACTED]/13 that her daughter was a household member; and
- (3) initiate a supplement of any benefits improperly not issued.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/15/2013

Date Mailed: 11/15/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) 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. MAHS 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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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 48909-07322

CG/hw

cc:

