

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

**IN THE MATTER OF:**



Reg. No.: 20141964  
Issue No.: [REDACTED]  
Case No.: [REDACTED]  
Hearing Date: November 26, 2013  
County: Jackson

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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 26, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] of [REDACTED] as authorized hearings representative. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

**ISSUE**

Whether the Department of Human Services (Department) properly approve the Claimant and her spouse for Medical Assistance (M.A.) in a category of benefits that would provide Emergency Service Only (ESO)?

**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 January 25, 2013, the Claimant submitted an application for Medical Assistance (M.A.).
2. On March 5, 2013, the Department approved the Claimant for Emergency Services Only (ESO) Medical Assistance (M.A.).
3. The Department received the Claimant's request for a hearing on September 26, 2013, protesting the denial of Medical Assistance (M.A.) other than Emergency Services Only (ESO).

**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.

The Claimant applied for Medical Assistance (M.A.) on January 26, 2013, and the Department determined that the Claimant and her spouse were only eligible for Emergency Services Only (ESO) after they failed to submit verification of their citizenship or immigration status.

The Claimant and her spouse indicated that they are U.S. citizens on their application for assistance.

The Department is directed to not request verification of citizenship from a person claiming U.S. citizenship unless the person's statements are questionable. Department of Human Services Bridges Eligibility Manual (BEM) 225 (July 1, 2013), p 20.

The Department has the burden of presenting evidence to establish that its actions were taken in accordance with policy. In this case, the Department did not dispute that it failed to properly determine the Claimant's eligibility for Medical Assistance (M.A.) based on her January 25, 2013, application for assistance.

Furthermore, the Department did not allege or establish that the Claimant's application is questionable with respect to citizenship despite the fact that she was not born in the United States.

Therefore, the Department's Medical Assistance (M.A.) eligibility determination is reversed.

**DECISION AND ORDER**

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed the Claimant's application for assistance.

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. Initiate a determination of the Claimant's eligibility for Medical Assistance (M.A.) based on her January 25, 2013, application for assistance.

2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/  
Kevin Scully  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 11/27/2013

Date Mailed: 11/27/2013

**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.

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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

KS/sw

cc:

