

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-24329
Issue No.: 2012
Case No.: [REDACTED]
Hearing Date: August 12, 2013
County: Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a three-way telephone hearing was held on August 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR), [REDACTED] from [REDACTED], [REDACTED] Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED] Eligibility Specialist.

ISSUE

Whether the Department properly processed Claimant's Medical Assistance (MA) application?

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 January 29, 1998, Claimant was in non-cooperation status with the Office of Child Support ("OCS").
2. On January 21, 2010, Claimant's AHR applied for MA benefits and sought retroactive coverage back through October of 2009. Exhibit 1.
3. On April 28, 2011, the Department submitted a help desk ticket to process Claimant's application and retroactive coverage back through October of 2009. Exhibit 1.

4. Neither claimant nor Claimant's AHR received a response to the application from the Department.
5. On January 11, 2013, the Department received Claimant's AHR written request for hearing disputing the Department's failure to process the MA application. Exhibit 1.

CONCLUSIONS OF LAW

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

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 of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

As a preliminary matter, an OCS caseworker was not present for the hearing to testify regarding the non-cooperation status.

On January 29, 1998, the Department testified that Claimant was in non-cooperation status with the OCS. On January 21, 2010, Claimant's AHR applied for MA benefits and sought retroactive coverage back through October of 2009. Exhibit 1. On April 28, 2011, the Department submitted a help desk ticket to process Claimant's application and retroactive coverage back through October of 2009. Exhibit 1. Neither claimant nor Claimant's AHR received a response to the application from the Department. On January 11, 2013, the Department received Claimant's AHR written request for hearing disputing the Department's failure to process the MA application. Exhibit 1.

Clients must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (January 2010), p. 1.

Failure to cooperate without good cause results in disqualification. BEM 255, p. 1. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255, p. 1. For MA applications, the Department imposes a support disqualification based on the non-coop record in the system when all of the following are true: there is a notice of noncooperation in the case record or the client appears on the child support non-cooperation report; there is not a subsequent notice that the noncooperation member has cooperated; support/paternity action is still a factor in the child's eligibility; and good cause has not been granted nor is a claim pending. BEM 255, p. 10.

Also, the local office and client or authorized hearing representative 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. BAM 600 (July 2013), p. 27. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600, p. 27. Both the local office and the client or authorized hearing representative 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. BAM 600, p. 27. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 39.

At the hearing, the Department testified that ultimately the help desk ticket would not be corrected and it would deny Claimant's request for retroactive coverage from October of 2009 due to Claimant being in non-cooperation status with the OCS. Claimant's AHR testified that they first learned about the non-cooperation at today's hearing. Moreover, Claimant's AHR testified that Claimant's child is over the age of 18 and thus, there should be no issues with the OCS. It should be noted that the Department testified that Claimant was still in non-cooperation.

Based on the foregoing information and evidence, the Department failed to process Claimant's retroactive coverage from October of 2009, ongoing. First, the Department failed to present evidence or testimony that led to the reasons for Claimant's non-cooperation. Second, there was no caseworker present from the OCS to testify regarding the non-cooperation or rebut Claimant's AHR testimony that the child is now over the age of 18. Thus, the Department failed to satisfy its burden for the reasons it denied Claimant's retroactive coverage from October 2009.

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 did act properly did not act properly.

Accordingly, the Department's MA decision is AFFIRMED REVERSED for the reasons stated above and 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. Begin removing Claimant's non-cooperation status with the Office of Child Support, if any;
2. Initiate registration and processing of Claimant's January 21, 2010 MA application, retroactive to October of 2009, ongoing;

3. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive but did not from October of 2009, ongoing; and
4. Begin notifying Claimant and Claimant's AHR in writing of its decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 26, 2013

Date Mailed: August 26, 2013

NOTICE OF APPEAL : 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).

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.

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

EF/hj

cc:

