

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

**IN THE MATTER OF:**



Reg. No.: 201421030  
REHD/RECON  
Issue No.: 2004  
Case No.: [REDACTED]  
Hearing Date: February 19, 2014  
County: Calhoun

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**DE NOVO REHEARING DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37, and Mich Admin Code Rule 400.909 upon an Order Granting Request for Reconsideration and Decision and Order of Rehearing issued by Supervising Administrative Law Judge (SALJ) Colleen M. Mamelka dated November 26, 2013 and mailed on December 3, 2012. SALJ Mamelka granted reconsideration and a *de novo* rehearing of the hearing decision generated by the assigned ALJ at the conclusion of a hearing conducted on October 17, 2012, and mailed on October 25, 2012, in the above-captioned matter. The date for a new hearing having been assigned and due notice having been provided, a three-way telephone hearing was conducted from Lansing, Michigan on February 19, 2014. Participants on behalf of Claimant included [REDACTED] (Authorized Hearing Representative (AHR) from [REDACTED]). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

**PROCEDURAL HISTORY**

1. On August 29, 2012, Claimant's AHR requested a hearing to dispute the Department's purported failure to process a February 12, 2012 application for Medical Assistance (MA) seeking retroactive MA benefits from November 2011.
2. On October 17, 2012, Claimant had a hearing before an ALJ.
3. The ALJ issued a Hearing Decision that affirmed the Department's decision to deny Claimant's MA application due, in part, to Claimant's failure to meet the residency requirement.
4. The Hearing Decision was mailed to Claimant and Claimant's Authorized Hearing Representative on October 24, 2012.

5. On November 14, 2012, Claimant's AHR filed a Motion for Rehearing/Reconsideration with the Michigan Administrative Hearing System (MAHS).
6. On December 3, 2012, MAHS mailed Claimant's AHR an Order Granting Request for Reconsideration and Decision and Order of Rehearing.
7. Claimant's *de novo* rehearing occurred on February 19, 2014.

### **ISSUE**

Did the Department properly process Claimant's February, 2012 application seeking MA benefits and retroactive MA benefits to November 2011?

### **FINDINGS OF FACT**

Based on the competent, material, and substantial evidence on the whole record, including testimony of witnesses, the Administrative Law Judge finds as material fact:

1. The Department received an application for public assistance filed on behalf of Claimant in February, 2012 seeking retroactive MA benefits from November, 2011.
2. On April 12, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) which indicated that Claimant's MA benefits were approved for November, 2011, but denied Claimant's MA eligibility as of February, 2012 ongoing due to failure to meet the residency requirements.
3. On August 27, 2012, Claimant's AHR forwarded a written request for a hearing challenging the Department's alleged failure to process the February, 2012 application for assistance.<sup>1</sup>
4. Claimant died on [REDACTED].
5. The Department did not address whether Claimant was eligible for MA benefits for the month of December, 2011.

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<sup>1</sup> Claimant's AHR reportedly did not receive a copy of the DHS-1605 regarding the status of the application.

### 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, 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.

An application or filing form, with the minimum information, must be registered unless the client is already active for the program requested. BAM 110, p 6 (December, 2011). An application for MA benefits may be made on behalf of a client by the spouse, parent, legal guardian, adult child, stepchild, specified relative, or any other person provided the person is at least age 18 or married. BAM 110, p 8. If the person is not a spouse, parent, legal guardian, adult child, stepchild, or specified relative, the person must have a signed authorization to act on behalf of the client, by the client, client's spouse, parent(s), or legal guardian. BAM 110, p 8. Any person, regardless of age, or his AR, may apply for assistance. BAM 110, p 4. An AR is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf. BAM 110, p 7. For MA purposes, an AR must be an adult child or stepchild; a specified relative; designated in writing by the client; court appointed; or a representative of an institution (such as jail or prison) where the client is in custody. BAM 110, p 9. Adequate notice must be provided for approval or denial of an application. BAM 220, p 2 (January, 2011).

In addition, with regard to MA applications, the Department must determine eligibility for **each** retro MA month **separately**. BAM 115, p 13 (December, 2011). For all programs, the standard of promptness (SOP) begins the date the department receives an application/filing form, with the minimum required information. BAM 115, p 14.

For all programs, upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220, p 1 (2011).

Here, Claimant's AHR contends that the Department erred when it processed Claimant's February 2012, application for MA benefits which sought retroactive benefits back to November, 2011. Claimant's AHR asserts that the Department, on April 12, 2012, approved Claimant's MA for November, 2011, but failed to make an eligibility determination for December, 2011. The Department representative who attended the hearing did not dispute the assertions of Claimant's AHR and indicated that the Department intends to pursue a remedy ticket to determine Claimant's December, 2011 eligibility. During the hearing, it should be noted that the Department did not argue that Claimant failed to meet the residency requirements at any time.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The parties did not dispute the salient facts during the hearing in this matter. The Department conceded in this matter. The Department agrees to reprocess Claimant's February, 2012 application for retroactive MA benefits to determine Claimant's eligibility for the month of December, 2011. Based on the evidence along with the Department's agreement, this Administrative Law Judge finds that the Department did not properly process Claimant's February, 2012 application in that it failed to determine Claimant's eligibility for MA benefits for the month of December, 2011.

### **DECISION AND ORDER**

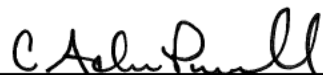
Based on the above findings of fact and conclusions of law, this Administrative Law Judge decides that the Department's decision is **REVERSED**.

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. The Department shall re-register and reprocess Claimant's February, 2012 application for retroactive MA benefits and determine Claimant's MA eligibility for the month of December, 2011.
2. To the extent it is necessary and/or required, the Department shall request a remedy ticket to reprocess Claimant's December, 2011 MA eligibility.
3. After the Department has determined Claimant's December, 2011 MA eligibility, the Department shall provide Claimant's AHR with a detailed written explanation that indicates whether Claimant was eligible for MA for December, 2011.

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IT IS SO ORDERED.



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**C. Adam Purnell**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: February 24, 2014

Date Mailed: February 25, 2014

**NOTICE:** The law provides that within 30 days of receipt of this decision, the claimant may appeal this decision to the circuit court for the county in which he/she lives.

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