

representative requested the use of the May 2013 application to attach the retro request.

4. On December 11, 2013, Claimant's representative filed a hearing request indicating the following:

"We submitted a Family Medicaid to the [REDACTED] on May 24, 2013. It was correctly denied for the needed month due to child support sanction. The child was not active Medicaid for the month of February 2013 and [REDACTED] is under 21 so we resubmitted a DHS 3243 retro application for 2/2013 requesting Medicaid for [REDACTED] only. We believe that the two requirements in BEM 225 page 13 are met and the Medicaid using the under 21 policy could be used. To date we have not received a VCL or Notice of Case Action".

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

In the instant case, Claimant's representative alleged they applied for MA on May 24, 2013, with a retro request to February 2013. The Department denied this application based upon a child support sanction. The Department testified that Claimant failed to become cooperative with child support until July 17, 2013. Claimant's representative did not challenge whether or not Claimant was in cooperation. Claimant's representative simply asserted the Department had failed to consider Claimant's eligibility for MA based upon Claimant being under the age of 21. Claimant's representative's hearing request stipulates the Department's decision regarding denial for May 2013 was correct. However, the Department, according to Claimant's representative, should have considered Claimant under the age of 21 for the retro months being requested. Claimant's representative asserted Claimant's child was not receiving MA benefits during the retro month of February 2013. Therefore, they asserted Claimant would be eligible.

According to BEM 255, p. 13, a failure to cooperate without good cause results in member disqualification. The adult member who fails to cooperate is **not** eligible for MA when both of the following are true:

1. The child for whom support/paternity action is required receives MA.
2. The individual and child live together.

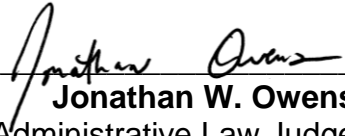
In the instant case, no evidence was presented to demonstrate the Department processed the retro months requested under the MA policy regarding under the age of 21. Nor did the Department demonstrate Claimant's child was receiving MA benefits during the retro months. Claimant's representative's assertion regarding Claimant's child not receiving MA benefits was not refuted. Based on the above, this Administrative Law Judge finds the Department has failed to demonstrate that Claimant's request for MA was processed according to policy and all MA programs were considered prior to denial.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to MA from May 2013 ongoing, and REVERSED IN PART with respect to retro MA.

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 processing Claimant's request for retro MA back to February 2013;
2. Determine eligibility for MA benefits utilizing the under the age 21 category;
3. Issue a notice of case action.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 19, 2014

Date Mailed: March 19, 2014

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

JWO/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]