

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

IN THE MATTER OF:



Reg. No.: 2014-21448
Issue No(s): 1004; 2004; 6004
Case No.: [REDACTED]
Hearing Date: March 13, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 March 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Family Independence Manger.

ISSUES

Did the Department properly process Claimant's Medical Assistance (MA) application?

Did the Department properly process Claimant's cash (Family Independence Program (FIP)) application?

Did the Department properly process Claimant's Child Development and Care (CDC) 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 or around March 15, 2013, Claimant applied for cash (FIP) benefits. See Program Request, Exhibit 1.
2. On or around August 23, 2013, Claimant applied for CDC benefits. See Program Request, Exhibit 1.

3. On September 16, 2013, the Department sent Claimant a Notice of Case Action notifying her that her cash application was denied effective April 1, 2013, ongoing, due to the individual being eligible for this program in another case and for failure to comply with the verification requirements. See Exhibit 1.
4. On September 16, 2013, the Notice of Case Action also notified Claimant that her CDC application was denied effective August 11, 2013, ongoing, due to the failure to comply with the verification requirements. See Exhibit 1.
5. On December 13, 2013, Claimant filed a hearing request, protesting her cash, MA, and CDC denial. See Exhibit 1.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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 State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Preliminary matters

First, on January 22, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a letter stating her hearing request may not be timely. See Exhibit 1. The Department's Notice of Case Action to Claimant was dated September 16, 2013 and Claimant's hearing request is dated December 13, 2013. See Exhibit 1. Claimant's hearing request was received within ninety days of the Notice of Case Action. Moreover, during the hearing, Claimant protested the Department's failure to process her application. As such, the hearing proceeded as Claimant's hearing request was timely. See BAM 600 (March 2014), pp. 4-6.

Second, during the hearing, Claimant also testified that the Department failed to process her application dated March 15, 2013. Claimant testified she applied for Cash, CDC, and MA benefits on March 15, 2013. Therefore, this hearing decision will address the Notice of Case Action denying benefits (dated September 16, 2013) and address the Department's alleged failure to process the application.

Cash application

In this case, Claimant testified that she applied for Cash benefits on March 15, 2013. Claimant's assertion is supported by the fact that the program request document does indicate a Cash application for March 15, 2013. See Exhibit 1. On September 16, 2013, the Department sent Claimant a Notice of Case Action notifying her that her Cash application was denied effective April 1, 2013, ongoing, due to the individual being eligible for this program in another case and for failure to comply with the verification requirements. See Exhibit 1.

During the hearing, it was unclear why the Department denied Claimant's March 2013 application several months later. Moreover, it was unclear regarding the denial reasons as well for her Cash application.

Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110 (January 2013), p. 4. The date of application is the date the local office receives the required minimum information on an application or the filing form. BAM 110, p. 4. The registers a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 16.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (January 2013), p. 12. The Department certifies FIP program approval or denial of the application within 45 days. BAM 115, p. 12.

Based on the above information, the Department failed to process Claimant's Cash application within the standard of promptness. See BAM 115, p. 12. Nevertheless, the Department denied Claimant's Cash application effective April 1, 2013; however, the

Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it unable to establish the denial reason.

The local office and client or AHR 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, p. 36. Both the local office and the client or AHR 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. 36. 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.

Based on the foregoing information and evidence, the Department failed to establish that it properly denied Claimant's Cash application effective April 1, 2013, ongoing. The Cash denial reason was that the individuals being eligible for this program were in another case and verification requirements. See Exhibit 1. However, the Department failed to present evidence for this denial reason. As such, the evidence presented that the Cash application occurred on March 15, 2013. Therefore, the Department will reregister the Cash application dated March 15, 2013 due to the Department failing to satisfy its burden of showing that it properly denied the application effective April 1, 2013, ongoing, in accordance with Department policy.

MA application

For MA cases, the Department certifies approval or denial of the application within 45 days. BAM 115, p. 13. Moreover, if the group is ineligible or refuses to cooperate in the application process, the Department must certifies the denial within the standard of promptness and also send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 18. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 19.

In the present case, Claimant also testified that she applied for MA benefits on March 15, 2013. Claimant testified that the MA application was also for additional group members. However, Claimant did not present any documentary evidence of such an application. Claimant testified that she brought in a paper application on March 15, 2013, however, recalled that she submitted it online at the local DHS office. The Department did not locate such an online application. Moreover, the program request document only indicated a MA application last dated December 21, 2009. See Exhibit 1. The program request did not contain any MA application submitted on March 15, 2013. See Exhibit 1. It should be noted that the Notice of Case Action (dated September 16, 2013) did not indicate any MA application denial. See Exhibit 1.

Nevertheless, the Department determines eligibility and benefit amounts for all requested programs. BAM 105 (March 2013), p. 11. A DHS-1171 application for cash

assistance (FIP/RCA/SDA) is an application for medical assistance (MA/RMA/AMP), even if medical assistance is not checked as a program being applied for on page 1 of the application. BAM 105, p. 11.

Based on the above information and evidence, the Department failed to establish that it properly determined Claimant's eligibility for MA benefits regarding the application dated March 15, 2013. As stated above, it is found that Claimant applied for Cash benefits on March 15, 2013. BAM 105 furthermore states that a DHS-1171 application for cash assistance (FIP/RCA/SDA) is an application for medical assistance (MA/RMA/AMP), even if medical assistance is not checked as a program being applied for on page 1 of the application. BAM 105, p. 11. Because the Claimant applied for Cash benefits, BAM 105 states that eligibility must also be determined for MA benefits, even if it is not requested. BAM 105, p. 11. The Department failed to present any evidence if such an eligibility determination had been made for MA benefits. No notice of approval or denial was presented at the hearing to show if MA eligibility was determined. Therefore, the Department will also initiate registration and processing of Claimant's MA eligibility from the application dated March 15, 2013. See BAM 105, p. 11.

CDC application

It should first be noted that the same policy regarding application processing in MA benefits applies to CDC applications as well. See BAM 115, p. 13.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For CDC cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it request. BAM 130 (July 2013), p. 5. For CDC only, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. BAM 130, p. 6. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6.

The Department sends a negative action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6.

In this case, Claimant also testified that she applied for CDC benefits on March 15, 2013. A review of the program request document indicated the last CDC application occurred on August 23, 2013. See Exhibit 1. This was supported by the fact that on September 16, 2013, the Notice of Case Action also notified Claimant that her CDC application was denied effective August 11, 2013, ongoing, due to failure to comply with the verification requirements. See Exhibit 1. The Notice Case Action supports that an application occurred in August 2013. However, Claimant did not present any documentary evidence of such an application in March 2013. The only evidence

presented was an application completed for CDC benefits on August 23, 2013. As such, it is found that Claimant did not apply for CDC benefits in March 2013.

Nevertheless, it is found that a CDC application occurred in August 2013. The Department, though, failed to satisfy its burden of showing that it acted in accordance with Department policy when it was unable to show why the CDC application was denied for verification requirements.

Based on the foregoing information and evidence, the Department failed to establish that it properly denied Claimant's CDC application effective August 11, 2013, ongoing. BAM 600, pp. 36 and 39. The CDC denial reason was that the Claimant failed to comply with the verification requirements. See Exhibit 1. However, the Department failed to present evidence for this denial reason. Therefore, the Department will reregister the CDC application dated August 23, 2013 due to the Department failing to satisfy its burden of showing that it properly denied the application effective August 11, 2013, ongoing, in accordance with Department policy.

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 (i) failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly denied Claimant's Cash application dated March 15, 2013; (ii) did not act in accordance with Department policy when it failed to establish that it properly determined Claimant's eligibility for MA benefits regarding the application dated March 15, 2013; (iii) failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly denied Claimant's CDC application effective August 11, 2013, ongoing; and (iv) acted in accordance with Department policy when it properly did not determine Claimant's CDC eligibility for March 2013.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to Claimant's CDC eligibility for March 2013 and REVERSED IN PART with respect to the Cash, CDC (application dated August 23, 2013), and MA decisions.

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 re-registration and processing of Claimant's Cash application dated March 15, 2013;
2. Initiate registration and processing of Claimant's MA application dated March 15, 2013;

3. Initiate re-registration and processing of Claimant's CDC application dated August 23, 2013;
4. Begin issuing supplements to Claimant for any Cash, MA, and CDC benefits she was eligible to receive but did not from the date of applications and in accordance with Department policy; and
5. Begin notifying Claimant in writing of its Cash, CDC, and MA decision in accordance with Department policy.



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

Date Signed: March 31, 2014

Date Mailed: March 31, 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:

2014-21448/EJF

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/tlf

cc:

