

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

IN THE MATTER OF:



Reg. No.: 201420250
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: April 3, 2014
County: Macomb County DHS #20

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 April 3, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] as the Claimant's guardian, and [REDACTED], as the Claimant's attorney. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly closed the Claimant's Medical Assistance (MA) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing Medical Assistance (MA) recipient.
2. The Claimant had been declared to be incompetent and has been placed in institutional care in the state of Ohio.
3. On December 4, 2013, the Office of Inspector General issued a report finding that the Claimant was receiving Medical Assistance (MA) benefits in Michigan and Ohio.
4. On December 16, 2013, the Department notified the Claimant that it would terminate her Medical Assistance (MA) as of January 1, 2014.
5. The Department received the Claimant's request for a hearing on December 26, 2013, protesting the termination of Medical Assistance (MA) benefits.

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.

To be eligible, a person must be a Michigan resident. Department of Human Services Bridges Eligibility Manual (BEM) 220 (February 1, 2014), p 1.

For the purposes of Medical Assistance (MA) benefits, an individual is a resident if both of the following apply:

- Is living in Michigan, except for a temporary absence.
- Intends to remain in Michigan permanently or indefinitely. BEM 220, p2.

Incompetent adults and dependent children are sometimes placed in another state by a person or agency legally responsible for their care. The individual remains a Michigan resident unless the move is to establish a permanent out-of-state home. BEM 220, p3.

Accept an individual's statement of intent to remain in Michigan unless the statement is inconsistent or conflicts with known facts. BEM 220, p6.

The Department will sent a negative action 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. Department of Human Services Bridges Administrative Manual (BAM) 130 (April 1, 2014).

Before determining eligibility, the Department will give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130.

Evidence of an intent to remain a Michigan resident includes:

- Evidence that rent, property taxes, utilities or house payments in Michigan are being paid.
- Evidence that a local job is being held for the individual.
- Evidence that the reason for the absence implies intent to remain a Michigan resident. BEM 220, p 7.

In this case, the Claimant was an ongoing Medical Assistance (MA) recipient. The Claimant has been declared to be incompetent and has been placed in institutional care in the state of Ohio.

On December 4, 2013, the Office of Inspector General issued a report finding that the Claimant was receiving Medical Assistance (MA) in Michigan and Ohio. On December 16, 2013, the Department notified the Claimant that it would terminate her Medical Assistance (MA) as of January 1, 2014.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department has failed to establish that the Claimant's placement in Ohio is not a temporary absence from Michigan, or that the Claimant lacks the intent to remain a Michigan resident. The Department has also failed to establish that the Claimant meets the criteria to be considered a resident of Ohio, that she applied for Medical Assistance (MA) in Ohio, or that she was not approved for benefits in Ohio in error.

This Administrative Law Judge finds that the Department was not acting in accordance with BEM 130 when it terminated the Claimant's Medical Assistance (MA) benefits without requesting additional information from the Claimant to clarify the discrepancy of her state of residency after receiving conflicting information from another source.

Therefore, the Department's termination of Medical Assistance (MA) benefits 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 did not act in accordance with Department policy when it terminated the Claimant's Medical Assistance (MA) benefits.

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. Provide the Claimant with a ten-day period to provide information to clarify her intent to remain a Michigan resident.
2. Initiate a determination of the Claimant's eligibility for Medical Assistance (MA) as of January 1, 2014.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.

4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



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

Date Signed: April 15, 2014

Date Mailed: April 15, 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:

201420250/KS

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

KS/hj

cc:

