

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201430797
Issue No(s): 2008
Case No.: [REDACTED]
Hearing Date: April 15, 2014
County: Gratiot County DHS

ADMINISTRATIVE LAW JUDGE: Gary F Heisler

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 15, 2014, from Lansing, Michigan. Participants on behalf of Claimant included her attorney [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Lead Worker [REDACTED].

ISSUE

Did the Department apply a proper divestment penalty period to Claimant's Medical Assistance eligibility?

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 March 21, 2012, Claimant applied for Medical Assistance.
2. On March 4, 2013, remedy ticket BR-0006424 was submitted to apply a properly calculated divestment penalty period from March 1, 2012 until September 6, 2014.
3. On December 7, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which incorrectly stated she had a divestment penalty period of March 1, 2013 until May 29, 2015.
4. On March 7, 2014, Claimant submitted a hearing request.

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 Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

During this hearing Lead Worker [REDACTED] and Attorney [REDACTED] agreed and testified that the correct divestment penalty period is March 1, 2012 until September 6, 2014. Lead Worker [REDACTED] explained that the remedy ticket had been recorded as resolved with the incorrect divestment penalty period of March 1, 2013 until May 29, 2015. Ms. Liberty went on to state the reason given for not putting the correctly calculated period on was given as an inability to backdate the period due to the requirement of giving negative action time on an open case. It makes sense that there may be a programing block on backdating divestment penalty periods in order to avoid an inadvertent backdating. However, in this case both the Department and Claimant have been in agreement since application that March 1, 2012 until September 6, 2014 is the correct divestment penalty period.

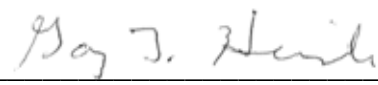
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it applied the March 1, 2013 until May 29, 2015 divestment penalty period to Claimant's Medical Assistance eligibility.

DECISION AND ORDER

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. Correct the divestment penalty period applied to Claimant's Medical Assistance eligibility.



Gary F Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 9, 2014

Date Mailed: May 9, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

GFH/hj

cc:

