

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 14-001221  
Issue No.: 2002  
Case No.: [REDACTED]  
Hearing Date: August 6, 2014  
County: Oakland-District 3

**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 August 6, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's authorized hearings representative [REDACTED] of [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

Did the Department properly deny the Claimant's Medical Assistance (MA) 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. The Claimant applied for Medical Assistance (MA) and requested retroactive benefits through August 1, 2012.
2. On September 9, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of child support received, the value of rental property, and a mortgage expense on the rental property.
3. On October 29, 2014, the Department notified the Claimant that it had denied her request for retroactive Medical Assistance (MA).
4. On January 9, 2014, the Department received the Claimant's request for a hearing, protesting the denial of retroactive Medical Assistance (MA).

## **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).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p 4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p. 5, provides in relevant part as follows:

*The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]*

In this case, the Department notified the Claimant that it had denied the Claimant's request for retroactive Medical Assistance (MA) on October 29, 2013. The Department's representative testified that the Claimant's request for a hearing was not received until April 14, 2014.

It should be noted that the Department completed its hearing summary on April 16, 2014.

The Claimant provided written documentation of a request for a hearing emailed to the Department on January 9, 2014.

This Administrative Law Judge finds that the Claimant provided substantial evidence supporting a finding that her representative made a timely request for a hearing to protest the denial of retroactive Medical Assistance (MA).

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (March 1, 2013), p 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Department of Human Services Bridges Assistance Manual (BAM) 130 (May 1, 2012), p 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

The Claimant applied for Medical Assistance (MA) and requested retroactive benefits through August 1, 2012. On September 9, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of child support received, the value of rental property, and a mortgage expenses on the rental property. The Department granted three extensions to the due date but on October 29, 2014, the Department notified the Claimant that it had denied her request for retroactive Medical Assistance (MA).

The Department's representative did not argue that the Claimant refused to supply the Department with the necessary information to determine her eligibility for benefits, but that the material provided was not sufficient verification. The Department's representative testified that there was a discrepancy in the amount of child support the Claimant received, that a rental property asset was not verified, and that the verification of mortgage expenses was not current for the retroactive period.

The Claimant's representative argued that policy did not require verification of the value of rental property for the Department to determine the Claimant's eligibility for Group 2 Medical Assistance (MA).

For Medical Assistance (MA) under the G2U and G2C categories, the Department will consider only the following types of assets:

- Cash (which includes savings and checking accounts).

- Investments(which includes 401(k), Roth IRA etc.).
- Retirement Plans.
- Trusts. Department of Human Services Bridges Eligibility Manual (BEM) 400 (July 1, 2012), p 1.

This Administrative Law Judge finds that the Department was not required to seek verification of the value of the Claimant's rental property do make an eligibility determination.

The Claimant provided a statement signed by the father of her child indicating that he pays the Claimant child support of \$ [REDACTED] bi-weekly. The Claimant also provided a copy of a divorce order that indicated a child support obligation of \$ [REDACTED] per week.

The Department will send 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.

This Administrative Law Judge finds that there was a discrepancy in the information provided by the Claimant and that the Department had a duty to seek additional information or apply its best judgment to resolve that discrepancy.

The Claimant provided verification of a mortgage obligation for December of 2012.

The Department counts the gross rent payment minus allowable expenses as income. The Department allows expenses that are the higher of:

- 65% of the rental payment.
- Actual rental expenses if the landlord chooses to report and verify the expenses. Department of Human Services Bridges Eligibility Manual (BEM) 504 (January 1, 2010), p 3.

This Administrative Law Judge finds that it was inappropriate to deny benefits for failure to provide verification of rental income expenses where policy allows expenses to be counted as a percentage of rental income.

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 Claimant made a timely request for an administrative hearing, and the Department did not act in

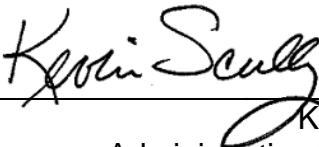
accordance with Department policy when it denied benefits for failure to provide the Department with information necessary to determine her eligibility to receive benefits.

**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. Initiate a determination of the Claimant's eligibility for retroactive Medical Assistance (MA) as of August 1, 2012.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

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

Date Signed: **8/18/2014**

Date Mailed: **8/18/2014**

KS/las

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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

cc:

