

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 14-009689
Issue No.: 2001
Case No.: ██████████
Hearing Date: October 20, 2014
County: WAYNE PATHWAYS TO POTENTIAL

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 three way telephone hearing was held on October 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's friend. Participants on behalf of the Department of Human Services (Department) included ██████████, Success Coach.

ISSUE

Did the Department properly complete the process to allow Claimant to full participate in the MI Choice Waiver Program?

FINDINGS OF FACT

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

1. Claimant is an ongoing recipient of MA benefits.
2. On August 7, 2014, Claimant signed a Transfer Community Medicaid to Waiver District form which allowed him to participate in the MI Choice Waiver Program.
3. The Department approved Claimant's participation in the MI Choice Waiver Program effective July 1, 2014.
4. As of the date of the hearing, Claimant had not begun receiving home and community-based services for aged and disabled persons.
5. On August 7, 2014, Claimant filed a Request for Hearing disputing the Department's actions.

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.

Additionally, the Department has a program which a waiver program called the MI Choice Waiver Program. This waiver program provides home and community-based services for aged and disabled persons who, if they did not receive such services, would require care in a nursing home. BEM 106 (July 2013), p. 1.

The Department testified that Claimant had been approved for home and community-based services as of July 1, 2014. In support of this, the Department produced a signed Transfer Community Medicaid to Waiver District form signed by Claimant on August 7, 2014. The Department stated that because Claimant executed the form, he qualified for the program. However, the Department confirmed that as of the date of the hearing, Claimant was not receiving the services because of codes that have to be placed in its computer system. The Department testified that Claimant had been placed into an MA category which caused him to have a deductible. The Department failed to provide a budget as to how it arrived at Claimant's deductible amount.

Department policy states that a waiver month is a calendar month containing at least one day that the participant is (was) approved for the waiver. BEM 106, p. 3. Department policy further states that the agent determines the waiver approval date. *Id.* As such, it appears that the Department's agent determined that Claimant's approval date was July 1, 2014. It is found that Claimant was approved and eligible for the MI Choice Waiver Program as of July 1, 2014 and that the Department failed to take the necessary steps to ensure Claimant's participation in this program.

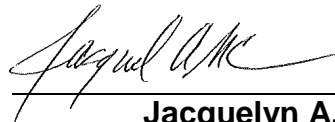
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with policy when it failed to take the necessary steps to allow for Claimant's participation with the MI Choice Waiver Program following approval on July 1, 2014.

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. Complete the approval process to allow Claimant to immediately begin receiving home and community-based services for aged and disabled persons in accordance with the Department's approval effective July 1, 2014; and
2. Issue any supplements for home and community-based services provided to Claimant since July 1, 2014.



Jacquelyn A. McClinton
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/12/2014**

Date Mailed: **11/12/2014**

JAM / cl

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:

[REDACTED]
[REDACTED]
[REDACTED]
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