

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-010727
Issue No.: 2001
Case No.: ██████████
Hearing Date: November 17, 2014
County: Oakland-District 4

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on November 17, 2014, from Pontiac, Michigan. ██████████ ██████████, Claimant's authorized hearing representative (AHR) with Independent Medical Network, appeared and testified on Claimant's behalf. Participants on behalf of the Department of Human Services (Department) included ██████████ Assistance Payment Supervisor, and ██████████, chief of the Family Support Division, Oakland County Prosecuting Attorney's Office (PAO), who participated by phone.

ISSUE

Did the Department properly deny Claimant's January 17, 2014 application for Medical Assistance (MA) with request for retroactive coverage to December 2013?

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 January 17, 2014, Claimant filed a request for MA benefits, with request for retroactive coverage to December 2013.
2. On January 24, 2014, the Department sent Claimant a Notice of Case Action denying the MA application due to a child support noncooperation sanction.
3. The Department advised the AHR that Claimant complied with her Office of Child Support (OCS) reporting obligations on April 10, 2014.

4. Claimant filed a request for hearing disputing the denial of her MA application, and on May 12, 2014, a hearing on the denial was held.
5. On May 20, 2014, presiding administrative law judge (ALJ) Jon Owens concluded that the Department had failed to send the client a verification checklist requesting that Claimant cooperate with the OCS before denying the application and reversed the Department's denial of Claimant's MA application and ordered the Department to reregister and reprocess the application.
6. On May 27, 2014, the Department sent Claimant a Benefit Notice denying Claimant's MA application including requested retroactive coverage because she was in noncooperation with child support until April 10, 2014.
7. On August 21, 2014, the AHR filed a request for hearing disputing the Department's denial of the January 17, 2014 MA application and retroactive coverage.

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.

In a Hearing Decision issued on May 20, 2014, ALJ Owens concluded that the Department had failed to properly comply with Department policy when it failed to send Claimant a VCL giving her ten days to comply with child support before imposing the child support disqualification. BEM 255 (January 2014), pp. 11-12. The Department was ordered to reregister and reprocess Claimant's January 17, 2014 MA application. In response, the Department sent Claimant a May 27, 2014, Benefit Notice denying the application for January 2014 ongoing and the requested retro months, concluding that because Claimant was found in cooperation with child support as of April 10, 2014, she was not in cooperation at the time of application.

The Department's benefit decision fails to properly implement the May 20, 2014 Hearing Decision. An MA disqualification would be imposed if the client failed to cooperate with child support on or before the VCL due date. BEM 255, pp. 11-12. In this case, the ALJ

found that the Department had failed to send a VCL at the time of Claimant's January 17, 2014 MA application. In implementing the Hearing Decision, because the Department concluded that Claimant had complied as of April 10, 2014, it did not need to send out the VCL. However, in essence, Claimant's compliance as of April 10, 2014, resulted in cooperation before the VCL due date, if one had been properly sent. Accordingly, under the facts in this case, the Department did not act in accordance with Department policy when it imposed the MA disqualification and denied Claimant's MA application, with request for retro due to child support noncompliance.

At the hearing, the evidence established that, for reasons that were unclear, the Office of Child Support referred the child support action concerning Claimant to the Prosecuting Attorney, and the Prosecuting Attorney found Claimant in noncompliance with her child support reporting obligations on May 16, 2014 concerning the same child as identified by the Department. However, the action taken by the Prosecuting Attorney occurred after the January 17, 2014 application and after the April 10, 2014 date Claimant was found in compliance with her child support reporting obligations and, accordingly, does not affect the processing of the January application.

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 denied Claimant's MA application.

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. Reregister and reprocess Claimant's January 17, 2014 MA application, with request for retroactive coverage to December 2013;
2. Provide Claimant with MA coverage she is eligible to receive from December 1, 2013 ongoing; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/25/2014**

Date Mailed: **11/25/2014**

ACE / tlf

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 48909-8139

CC:

[REDACTED]
[REDACTED]
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