

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-013000
Issue No.: 2008
Case No.: [REDACTED]
Hearing Date: November 19, 2014
County: MACKINAC

ADMINISTRATIVE LAW JUDGE: Gary 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 November 19, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included ES [REDACTED] DHS Manager [REDACTED] and AAG [REDACTED]. This case was incorrectly categorized as a Food Assistance Program eligibility issue.

ISSUE

Did the Department properly deny Claimant's June 30, 2014, Medical Assistance 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. On June 30, 2014, a Medical Assistance application was submitted on Claimant's behalf. (Pages 7-12) An affidavit from Claimant's daughter, [REDACTED] was submitted which identified two jointly owned CDs (7125 00, 7125 01) and one jointly owned account (0513).
2. On July 16, 2014, a Verification Checklist (DHS-3503) was sent out.
3. On July 18, 2014, a summary statement of two CDs (7125 00, 7125 01) and three separate accounts (0066, 0079, 0513) at Central Savings Bank was submitted. (Pages 19 & 20)
4. On July 23, 2014, an actual bank statement was submitted for account 0066.

5. On July 28, 2014, ES Rye informed Claimant's representative that formal verifications/statements were required for all assets with Claimant's name on them. Claimant's representative replied "Please read over the affidavit signed by [REDACTED] that was provided. They are [REDACTED] accounts." (Page 32)
6. On August 14, 2014, the Department determined that Claimant's Medical Assistance application was denied for failure to provide verification of account 0079. (Page 35) Notice of that determination was not sent out.
7. On September 16, 2014, Claimant's representative inquired about the June 30, 2014 application.
8. On September 17, 2014, the Department determined that notice of the August 14, 2014, eligibility determination had not been issued automatically. A Benefit Notice (DHS-176) was issued manually. (Pages 39 & 40)
9. On September 23, 2014, Attorney S. Brogan submitted a hearing request for Claimant.

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.

Jurisdictional Boundaries

The pursuit of Medical Assistance for Claimant has entailed multiple applications and a long sequence of inter-related events. It is prudent to identify and establish the jurisdictional boundaries of this Administrative Law hearing. The Director of the Department of Human Services' issued a written directive which identifies the authority delegated to Administrative Law Judges who conduct hearings on assistance eligibility determinations. That letter states that Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Bridges Administration Manual (BAM) 600 Hearings, at page 1 states:

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. The department provides an administrative hearing to review the decision and determine its appropriateness in accordance to policy. This item includes procedures to meet the minimum requirements for a fair hearing.

BAM 600 at page 1 also provides that there must be written notice of all case actions affecting eligibility or amounts of benefits. The written notice of the Department's denial of Claimant's June 30, 2014, Medical Assistance application was sent on September 17, 2014. Only verifications, documents, or information provided to the Department before that date are relevant to the eligibility determination made on that date.

BAM 600, at page 6 establishes a time limit for requesting a hearing about a Departmental determination. That time limit is 90 calendar days from the date of the written notice of case action. The hearing request which created the jurisdiction for this hearing was submitted on September 23, 2014. There is no jurisdiction to address any Departmental eligibility determinations prior to June 25, 2014, in this hearing.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940); *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542, 303 NW2d 35 (1981); *Delke v Scheuren*, 185 Mich App 326, 460 NW2d 324 (1990), and *Turner v Ford Motor Company*, unpublished opinion per curium of the Court of Appeals issued March 20, 2001 (Docket No. 223082).

It is undisputed that the Department did not issue a written notice within the 45 day standard of promptness provided in Bridges Administration Manual (BAM) 115 Application Processing. Claimant's representative asserts that if written notice had been issued sooner, the September 30, 2014 application could have been submitted earlier, and Claimant might have been approved for benefits sooner. There is no authority or equitable jurisdiction available to this Administrative Law Judge to address this speculative assertion of harm to Claimant by the Department's action.

Denial of the June 30, 2014 application

During the processing of Claimant's June 30, 2014, Medical Assistance application, the Department was sent a summary statement of two CDs (7125 00, 7125 01) and three separate accounts (0066, 0079, 0513) at Central Savings Bank. No evidence in this record shows that the Department was provided with any verification or explanation of the 0079 account.

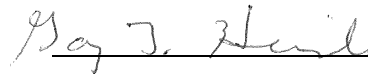
Bridges Eligibility Manual (BEM) 400 Assets establishes the requirement of making an MA asset eligibility determination. An MA asset eligibility determination requires verification of all assets in an applicant's name so that both the value and availability of

the assets can be determined. The required verification sources are identified beginning at page 57. A monthly statement is required for checking or draft accounts.

The summary statement of accounts submitted identified 0066 and 0079 as "DDA" accounts. Verification of 0066 was submitted and it is a joint checking account. Failure to provide monthly statement for 0079, or some other sufficient explanation of the account, is a failure to provide required verifications. 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 acted in accordance with Department policy when it denied Claimant's June 30, 2014, Medical Assistance application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **12/16/2014**

Date Mailed: **12/16/2014**

GFH/hj

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:

