

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-016098
Issue No.: 2000
Case No.: [REDACTED]
Hearing Date: February 05, 2015
County: Roscommon

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, telephone hearing was held on February 05, 2015, from Lansing , Michigan. Participants on behalf of Claimant included her authorized hearings representative [REDACTED] of [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED] as hearing facilitators.

ISSUE

Whether the Claimant made a timely request for a hearing to protest the denial of her application for Medical Assistance (MA)?

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 29, 2014, the Claimant submitted an application on the Federally Facilitated Marketplace (FFM).
2. On March 11, 2014, the Claimant's application was transferred to the Department.
3. On April 2, 2014, the Department notified the Claimant that her application for Medical Assistance (MA) had been denied for failure to provide the Department with information necessary to determine her eligibility to receive benefits.
4. On October 1, 2014, the Department received the Claimant's request for a hearing protesting the denial of Medical Assistance (MA) benefits.

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.

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.]

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center.

Department of Human Services Bridges Administrative Manual (BAM) 220
(October 1, 2014), p 1.

A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested. BAM 220.

Department policy defines two types of written notice: adequate and timely. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pending). For all programs the Department is required to give adequate notice of approval/denial of an application and an increase in benefits. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. BAM 220, pp 2-4.

In this case, the Claimant applied for Medical Assistance (MA) after submitting an application on the Federally Facilitated Marketplace (FFM). On April 2, 2014, the Department sent the Claimant adequate notice that her application for Medical Assistance (MA) had been denied for failure to provide the Department with information necessary to determine her eligibility to receive benefits.


On October 1, 2014, the Department received the Claimant's request for a hearing. This request for a hearing is not timely with respect to the April 2, 2014, notice of denial. More than 90 days passed after the Department provided the Claimant with written notice of the denial of Medical Assistance (MA) benefits and the Department's receipt of the request for a hearing. Therefore, the Claimant's hearing request does not fall within the jurisdiction of the Michigan Administrative Hearing System (MAHS) as defined by BAM 600, and must be dismissed.

The Claimant's representative testified that the Department failed to provide her with copies of the Department's written requests for information necessary to determine the Claimant's eligibility for Medical Assistance (MA). The Claimant's representative testified that the Department failed to send the representative notice that the application had been denied.

The Claimant's authorized hearing representative is not entitled to a hearing on the issue of whether she was provided adequate or timely notice of a denial of benefits. The representative stands in the shoes of the client and does not retain rights which are separate from the client's. Therefore, the request for hearing is DISMISSED for lack of timeliness.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the Request for Hearing is **DISMISSED**.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Acting DHS Director
Department of Human Services

Date Signed: **2/17/2015**

Date Mailed: **2/17/2015**

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:

