

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

IN THE MATTER OF:



Reg. No.: 201410266
Issue No(s): 2002
Case No.: [REDACTED]
Hearing Date: January 28, 2014
County: Macomb

ADMINISTRATIVE LAW JUDGE: Gary F. 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 January 28, 2014, from Lansing, Michigan. Participants on behalf of Claimant included himself and his authorized hearing representative from ADVOMAS. Participants from the Department included ES Craik.

ISSUE

Did the Department properly deny Claimant's April 11, 2011, Medical Assistance (MA) application for failure to provide required income verification, on September 4, 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 April 11, 2011, an application for Medical Assistance (MA) and retroactive Medical Assistance (MA) was submitted by ADVOMAS on behalf of Claimant.
2. On May 12, 2011, a Verification Checklist (DHS Form 3503) was sent to Claimant seeking employment income. The verification was due back on May 23, 2011. ADVOMAS was not sent a copy.
3. On May 26, 2011, the Department sent Claimant a Notice of Case Action (DHS-1605) which stated his application was denied due to excess assets. ADVOMAS was not sent a copy.
4. On September 21, 2011, ADVOMAS submitted a request for hearing.

5. On March 12, 2012, a hearing was conducted regarding the May 26, 2011, denial of the April 11, 2011, application.
6. On March 14, 2012, a Decision and Order was issued reversing the Department's May 26, 2011 denial of the April 11, 2011, application and ordering that Claimant's April 11, 2011, application be reprocessed.
7. On June 13, 2012, the Department sent a Medical Determination Verification Checklist (DHS-3503-MRT) to both Claimant and ADVOMAS requesting verification of earned income, from two separate employers, for the months of March and April 2011. The income verifications were due on June 25, 2012.
8. On June 19, 2012, ADVOMAS sent the Department an Email requesting identification of the second employer.
9. On June 20, 2012, the Department sent ADVOMAS the name and address for both of Claimant's employers.
10. On June 25, 2012, ADVOMAS requested an extension of time to obtain the income verification.
11. On July 2, 2012, ADVOMAS requested an extension of time to obtain the income verification.
12. On July 11, 2012, ADVOMAS returned verification of only one of the earned incomes. ADVOMAS also requested assistance from the Department in obtaining the other income verification.
13. On December 26, 2012, ADVOMAS requested a hearing to prompt the Department to complete processing the application.
14. On September 4, 2013, another hearing was conducted.
15. On September 4, 2013, the Department sent a Benefit Notice to ADVOMAS stating the April 11, 2011, application was denied for failure to provide all required income verifications by June 25, 2012.
16. On September 11, 2013, a Decision and Order was issued reversing the Department's action and ordering an eligibility determination on Claimant's April 11, 2011 application.
17. On November 1, 2013, ADVOMAS submitted a request for hearing about the September 4, 2012, denial of Claimant's April 11, 2011, Medical Assistance (MA) application.

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, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

During this hearing Claimant testified that he was employed as a cook at Big Boy and McDonalds during the 1st quarter of 2011. The Department submitted a wage match showing Claimant had earned income from two separate employers during the first quarter of 2011.

ADVOMAS asserts that the Department could have used the quarterly income information and processed the application.

Department of Human Services Bridges Administration Manual (BAM) 130 Verification and Collateral Contacts (5-1-2012) pages 2 & 3 states:

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment.

No evidence was submitted from either side on the issue of whether the Department made any effort to assist in obtaining the income verification. At this hearing the Department representatives argued that the quarterly wage match information was not sufficient to determine a monthly income for the unverified employment.

Department of Human Services Bridges Administration Manual (BAM) 705 Agency Error Over-Issuances, 715 Client/CDC Provider Error Over-Issuance and 720 Intentional Program Violation (IPV) provides for using "averaged monthly income reported on a wage match" to determine budgetable income in calculating over-issuance amounts. If it is sufficient for determining benefit eligibility for over-issuance calculations, it is good enough for determining benefit eligibility for an application.

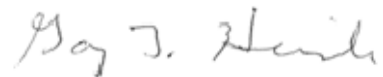
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's April 11, 2011, Medical Assistance (MA) application for failure to provide required income verification, on September 4, 2013.

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. Reinstate Claimant's April 11, 2011 Medical Assistance (MA) application.
2. Run an updated quarterly wage match for both 1st and 2nd quarter 2011 for Claimant.
3. Use the quarterly wage match income information to make a Medical Assistance (MA) eligibility determination for March and April 2011.
4. Issue a Notice of Case Action (DHS-1605) containing the Medical Assistance (MA) eligibility determination for March and April 2011 to both Claimant and ADVOMAS.
5. Return the action certification accompanying this Decision and Order within 10 days as required by Department policy. Annotate each specified action in this order and send ALL documentation required to show compliance with this Decision and Order.



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

Date Signed: 02/18/2014

Date Mailed: 02/18/2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was

made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

GFH/sw

cc:

