

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

IN THE MATTER OF:

██████████
██████████
████████████████████

Reg. No.: 2014-1361
Issue No(s): 2004, 2001
Case No.: ██████████
Hearing Date: March 13, 2014
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, three way telephone hearing was held on March 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included ██████████, the Claimant's Authorized Hearing Representative. The Claimant did not appear. Participants on behalf of the Department of Human Services (Department) included ██████████, ES, Medical Contact Worker.

ISSUE

Did the Department properly process the Settlement Order Decision issued January 11, 2013, Registration No. 2013-3383?

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 10, 2013 an in-person hearing was conducted regarding the denial by the Department of Claimant's application for Medical Assistance based upon disability, MA-P, for Registration No. 2013-3383. The hearing was regarding a February 27, 2007 application and retro application for November 2007.
2. At the hearing a Settlement Order dated January 11, 2013 was issued by Administrative Law Judge Leventer which ordered the Department to do the following: (1) Reinstate the Claimant's MA application: and (2) Initiate procedures to determine eligibility and provide benefits at the benefit level which Claimant is

entitled to; and (3) All steps shall be taken in accordance with Department policy and procedure.

3. The Settlement Order does not indicate the date of the application which was denied or the date of the Department Notice of Case Action denying the application.
4. The Medical Review Team (MRT), prior to the January 10, 2013 hearing, had issued its decision on the application on September 24, 2012 denying the application. Exhibit 1. The January 10, 2013 Disability hearing was in regards to the September 24, 2012 MRT denial.
5. In an effort to comply with the January 11, 2013 Settlement Order, the Department processed the application (February 27, 2007) with retro application to November 2006, issued a verification checklist issued July 22, 2013 which was responded to by the AHR and then the Department sent the matter to the MRT in September 2013. The MRT did not deny the application and sent it back to the Department with no decision or comment. The Department did not process the case any further and no notice of case action was ever issued with respect to its submission of the application to MRT in September 2013.
6. On September 17, 2013 the Claimant's AHR requested a hearing based upon the Department's failure to comply with the Settlement Order "to initiate procedures to determine eligibility and provide benefits at the benefit level to which claimant is entitled." As of the date of the hearing request "the Department has still not provided L&S with a new eligibility notice for the Claimant's application, nor has it confirmed that it is reprocessing the application to make a non medical determination."

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 the 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.

Additionally, in this case the evidence presented demonstrated that the Department has not complied with the January 11, 2013 Settlement Order issued in this matter requiring the Department to process the February 27, 2007 application and retro application for MA-P to determine eligibility and provide benefits in accordance with Department policy

and procedure. The Department began processing the case, sent the medical packet and application to the MRT on September 26, 2013 and then stopped processing of the application after MRT returned the matter to the Department without a decision. The Department has not as yet issued a notice of case action in this matter which determines eligibility. At the hearing the undersigned ruled on the record that an order would be entered scheduling this matter for hearing based upon the MRT denial of the application dated September 24, 2012; however, after further consideration, that relief as ordered on the record is not appropriate. As the Settlement Order was not complied with by the Department and a review of the request for hearing by the Claimant's AHR which requests that the Department comply with the Settlement Order and that the Department process the application, the appropriate relief requires the Department comply with the Settlement Order and to process the application and determine eligibility.

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 failed to process the February 27, 2007 application and retro application to determine eligibility as required by the Settlement Order issued January 11, 2013..

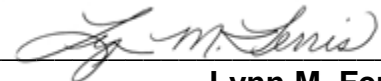
DECISION AND ORDER

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. The Department shall process the Claimant's February 27, 2007 application for MA-P and retro MA-P and which processing shall include issuance of a Notice of Case Action either approving or denying the application.
2. The Department shall provide a copy of the Notice of Case Action to the Claimant's AHR.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 19, 2014

Date Mailed: March 19, 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

LMF/cl

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]