

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-16542
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: February 19, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 February 19, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's son/Authorized Hearing Representative (AHR), [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Assistant Payment Worker, and [REDACTED], Family Independence Manager.

ISSUES

Did the Department properly determine Claimant's spouse Medical Assistance (MA) eligibility from the application dated October 13, 2013?

Did the Department properly deny Claimant's daughter MA application effective October 1, 2013, ongoing?

Did the Department properly deny Claimant's MA application effective December 1, 2013, ongoing?

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 August 26, 2013 and September 6, 2013, Claimant's daughter was in non-compliance with the Office of Child Support (OCS) regarding two children. See Exhibit 2.

2. On October 13, 2013, Claimant applied for MA benefits and retroactive MA coverage for July 2013. See Exhibit 2.
3. On October 13, 2013, Claimant applied for MA benefits and listed his spouse as a person in the home; however, he did not request MA benefits for her. See Exhibit 2.
4. On October 13, 2013, Claimant's daughter applied for MA benefits and provided information about the absent parent for the two children. See Exhibit 2.
5. On November 7, 2013, the Department sent Claimant a Wage Match Client Notice regarding his spouse's income and the form was due back by December 9, 2013. See Exhibit 1.
6. On November 12, 2013, the spouse's employer submitted a completed wage match.
7. On November 18, 2013, the Department sent Claimant a Notice of Case Action notifying him that he was approved for MA benefits for July 2013 (retroactive MA) and October 1, 2013 to November 30, 2013. See Exhibit 1.
8. On November 18, 2013, the Department also denied Claimant's MA benefits effective December 1, 2013, ongoing, due to his failure to comply with the verification requirements. See Exhibit 1.
9. On November 18, 2013, the Department sent Claimant a Verification Checklist (VCL) and it was due back by December 2, 2013. See Exhibit 1.
10. On November 18, 2013, the VCL requested verification of Claimant's spouse savings/checking account, employment, and home/building. See Exhibit 1.
11. On November 18, 2013, the VCL also requested verification of Claimant's daughter unearned income and that Claimant contact the OCS to comply with child support requirements. See Exhibit 1.
12. On November 20, 2013, the Department sent Claimant a Notice of Case Action notifying him that his daughter was denied MA benefits effective October 1, 2013, ongoing, due to the non-cooperation with the OCS. See Exhibit 1.
13. On November 20, 2013, the Notice of Case Action also notified Claimant that he was denied MA benefits effective December 1, 2013, ongoing, due to his failure to comply with the verification requirements. See Exhibit 1.
14. On December 2, 2013, Claimant's AHR filed a hearing request, protesting the MA denial. See Exhibit 1.
15. On December 9, 2013, the Department sent Claimant a Notice of Case Action notifying him that he was denied MA benefits effective December 1, 2013,

ongoing, due to his failure to provide verification of his spouse's home/building ownership. See Exhibit 1.

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.

Preliminary matters

First, on November 20, 2013, the Department sent Claimant a Notice of Case Action notifying that his son was denied MA benefits for October 1, 2013, ongoing. See Exhibit 1. Claimant's AHR testified that he is not disputing the MA denial for his brother (Claimant's son). Thus, this hearing decision will not address the MA denial for Claimant's son.

Second, on November 18, 2013, the Department sent Claimant a Notice of Case Action notifying him that he was approved for MA – Emergency Services Only benefits for July 2013 (retroactive coverage) and October 1, 2013 to November 30, 2013. See Exhibit 1. Claimant's AHR testified that he is not disputing these time period for his father (Claimant). Claimant testified that he is only disputing the MA denial for December 1, 2013, ongoing.

Third, it was discovered during the hearing that Claimant's AHR is disputing the following: (i) failure for the Department to determine Claimant's wife MA eligibility from the application dated October 13, 2013; (ii) disputing the MA denial of the AHR's sister (Claimant's daughter) effective October 1, 2013, ongoing; and (iii) disputing Claimant's MA denial effective December 1, 2013, ongoing.

Claimant's spouse MA application

Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110 (July 2013), p. 4. Register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2013), p. 6. This includes completion of necessary forms. BAM

105, p. 6. Clients must completely and truthfully answer all questions on forms and in interviews. BAM 105, p. 6.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105, p. 14. A DHS-1171 application for cash assistance (FIP/RCA/SDA) is an application for medical assistance (MA/RMA/AMP), even if medical assistance is not checked as a program being applied for on page 1 of the application. BAM 105, p. 14.

In this case, on October 13, 2013, Claimant applied for MA benefits. See Exhibit 2. On October 13, 2013, Claimant applied for MA benefits and listed his spouse as a person in the home; however, he did not request MA benefits for her. See Exhibit 2. A review of the application indicated no programs requested for Claimant's spouse. See Exhibit 1. Claimant's AHR stated that they did apply for benefits for his mother (Claimant's spouse).

Based on the foregoing information and evidence, the Department properly did not determine MA eligibility for Claimant's spouse in accordance with Department policy. A review of the application indicated no programs requested for Claimant's spouse. See Exhibit 1. Therefore, it was proper for the Department not to determine MA eligibility for Claimant's spouse as he did not request such benefits for her in the application dated October 13, 2013. See BAM 105, pp. 6 and 14; BAM 110, pp. 4 and 10.

Claimant's daughter MA application

On August 26, 2013 and September 6, 2013, Claimant's daughter was in non-compliance with the Office of Child Support (OCS) regarding two children. See Exhibit 2. On October 13, 2013, Claimant's daughter applied for MA benefits and provided information about the absent parent for the two children. See Exhibit 2. Specifically, the application indicated the same absent father for both children and indicated he was not in the home. See Exhibit 2. The application also indicated that the absent father pays \$1,000 every month and he is not in the country because he does not have any Visa status. See Exhibit 2.

Additionally, on November 18, 2013, the Department sent Claimant a VCL, which requested that Claimant contact the OCS to comply with child support requirements. See Exhibit 1. It should be noted that the VCL did not reference Claimant's daughter for the non-compliance. See Exhibit 1. On November 20, 2013, the Department sent Claimant a Notice of Case Action notifying him that his daughter was denied MA benefits effective October 1, 2013, ongoing, due to the non-cooperation with the OCS. See Exhibit 1.

At the hearing, Claimant's AHR testified that he did receive the VCL informing the household to contact the OCS. Claimant's AHR testified that they did not contact the OCS. Claimant's AHR testified that they did not contact OCS because two days subsequent to the VCL request, he received the denial notice. Moreover, Claimant reiterated as stated in the application that his sister (Claimant's daughter) received \$1,000 from the absent father for the two children.

The custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (October 2013), p. 1.

At application, client has 10 days to cooperate with the OCS. BEM 255, p. 12. The Department informs the client to contact the OCS in the verification check list (VCL). BEM 255, p. 12. The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true:

- There is a begin date of non-cooperation in the absent parent logical unit of work.
- There is not a subsequent comply date.
- Support/paternity action is still a factor in the child's eligibility.
- Good cause has not been granted nor is a claim pending.

BEM 255, p. 12.

Based on the foregoing information and evidence, the Department improperly denied Claimant's daughter MA application effective October 1, 2013, ongoing. The Department properly sent Claimant a VCL on November 18, 2013, to inform the client that they have 10 days to cooperate with the OCS. BEM 255, p. 12. However, the Department denied Claimant's daughter MA benefits only two days later. See Exhibit 1. The Notice of Case Action is dated November 20, 2013, which stated she was denied MA benefits due to the non-cooperation. See Exhibit 1. The Department failed to give Claimant's daughter the 10 days to cooperate with the OCS. See BEM 255, p. 12. Thus, the Department will reprocess Claimant's daughter MA application dated October 13, 2013 in accordance with Department policy.

Claimant's MA application

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For MA benefits, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130 (July 2013), p. 6. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM 130, p. 6. The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7.

Additionally, the Department requests verification of the wage match earnings by generating a DHS-4638, Wage Match Client Notice, from its system. BAM 802 (July 2013), p. 2. The DHS-4638 automatically gives the client 30 days to provide verification. BAM 802, p. 2.

If verifications are not returned by the 30th day, the case will close for a minimum of 30 days after appropriate actions are taken in the system, unless client returns verifications. BAM 802, p. 2.

In this case, on October 13, 2013, Claimant applied for MA benefits and retroactive MA coverage for July 2013. See Exhibit 2. On November 7, 2013, the Department sent Claimant a Wage Match Client Notice regarding his spouse's income and the form was due back by December 9, 2013. See Exhibit 1. On November 12, 2013, the spouse's employer submitted a completed wage match. On November 18, 2013, the Department sent Claimant a Notice of Case Action notifying him that he was approved for MA benefits for July 2013 (retroactive MA) and October 1, 2013 to November 30, 2013. See Exhibit 1. On November 18, 2013, the Department also denied Claimant's MA benefits effective December 1, 2013, ongoing, due to his failure to comply with the verification requirements. See Exhibit 1. It should be noted the denial policy reasons indicates BAM 802, which is the wage match denial code. See Exhibit 1 and BAM 802, p. 2.

Also, at the same time the denial notice is sent, on November 18, 2013, the Department sent Claimant a VCL and it was due back by December 2, 2013. See Exhibit 1. On November 18, 2013, the VCL requested verification of Claimant's spouse savings/checking account, employment, and home/building. See Exhibit 1. On November 20, 2013, the Department sent Claimant a Notice of Case Action notifying him that his MA benefits were denied effective December 1, 2013, ongoing, due to his failure to comply with the verification requirements. See Exhibit 1. Again, it should be noted the denial policy reasons indicates BAM 802, which is the wage match denial code. See Exhibit 1 and BAM 802, p. 2.

After the denial notice, on December 2, 2013, Claimant's AHR filed a hearing request, protesting the MA denial. See Exhibit 1. The hearing request references the Notice of Case Action dated November 20, 2013. See Exhibit 1. Subsequent to Claimant's hearing request, on December 9, 2013, the Department sent Claimant a Notice of Case Action notifying him that he was denied MA benefits due to his failure to provide verification of his spouse's home/building ownership. See Exhibit 1.

At the hearing, Claimant's AHR testified that he received the VCL dated November 18, 2013. However, Claimant's AHR testified that he was unsure of which type of document to provide for the home/building ownership. Moreover, the AHR testified that he left a voicemail to the DHS caseworker before the December 2, 2013 VCL due date. The AHR also scheduled an appointment with the DHS caseworker on November 26, 2013; however, he was a no-show. Ultimately, Claimant's AHR testified that he did not show for the appointment and/or provide the evidence because he received the MA denial notice two days after the VCL due date. Claimant's AHR appeared to have just requested a hearing to dispute the denial.

The Department testified that it received the wage match verification on November 12, 2013. However, the Department argued the denial was still proper as Claimant failed to submit the home/building ownership as requested in the VCL dated November 18,

2013. The MA denial notice for the failure to provide the home/building ownership was sent to the Claimant on December 9, 2013. See Exhibit 1.

Based on the foregoing information and evidence, this hearing lacks the jurisdiction to address Claimant's MA denial effective December 1, 2013, ongoing.

First, it is not disputed that Claimant provided the wage match verification on November 12, 2013. The evidence indicates that on November 18, 2013 and November 20, 2013, the Department sent Claimant two Notice of Case Actions denying his MA benefits effective December 1, 2013, ongoing, due to the failure to comply with the verification requirements. Both notices referenced Department policy BAM 802, the wage match denial code. See Exhibit 1. It is unclear why the Department references the wage match denial code as Claimant provided the wage match verification before the notice of case action dates. Nevertheless, both Notice of Case Actions are moot at this point because Claimant provided the wage match verification. Thus, the Department cured its action and the wage match verification is not at issue in this hearing as Claimant met that verification requirement.

Second, the Department, though, still denied Claimant's MA benefits effective December 1, 2013, ongoing, due to his failure to provide the verification of home/building ownership. However, this denial notice was sent to the Claimant on December 9, 2013. See Exhibit 1. Claimant's hearing request is dated December 2, 2013. See Exhibit 1. This Notice of Case Action is subsequent to Claimant's hearing request. Claimant has to request another hearing to dispute the MA denial notice (dated December 9, 2013). See BAM 600 (July 2013), pp. 4-5. This hearing lacks the jurisdiction to address Claimant's MA denial as it occurred after his hearing request.

In summary, Claimant ultimately provided the wage match verification and therefore, it is not at issue in this hearing. The Department, though, still denied Claimant's MA benefits effective December 1, 2013, ongoing, due to his failure to provide the home/building ownership verification. However, as stated above, this denial reason occurred after Claimant's hearing request and he will have to request another hearing to dispute the MA denial effective December 1, 2013, ongoing.


DECISION AND ORDER

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 (i) acted in accordance with Department policy when it properly did not determine MA eligibility for Claimant's spouse in the application dated October 13, 2013; (ii) did not act in accordance with Department policy when it improperly denied Claimant's daughter MA application effective October 1, 2013, ongoing; and (iii) this hearing decision lacks the jurisdiction to address Claimant's MA denial effective December 1, 2013, ongoing.

Accordingly, the Department's MA decision is AFFIRMED IN PART with respect to Claimant and his spouse and REVERSED IN PART with respect to Claimant's daughter.

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 the Claimant's daughter MA application dated October 13, 2013;
2. Begin reprocessing the application/recalculating the MA budget for Claimant's daughter effective October 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant's daughter for any MA benefits she was eligible to receive but did not from October 1, 2013, ongoing; and
4. Notify Claimant in writing of its MA decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 12, 2014

Date Mailed: March 12, 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.

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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

EJF/tlf

cc:

