

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

IN THE MATTER OF:

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

Reg. No.: 2014-21132
Issue No(s): 2001
Case No.: ██████████
Hearing Date: April 23, 2014
County: Macomb (50-12)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, an in-person hearing was held on April 23, 2014, from Clinton Township, Michigan. Participants on behalf of Claimant included ██████████
████████████████████ Participants on behalf of the Department of Human Services (Department) included ██████████

ISSUE

Did the Department properly process Claimant's request for Medical Assistance Program (MA-P) benefits?

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 December 28, 2011, an application for MA-P and retro MA-P to November 2011 was submitted on behalf of Claimant.
2. On February 8, 2012, the Medical Review Team found Claimant not disabled for purposes of MA-P and retro MA-P.
3. On April 30, 2012, a hearing was requested protesting this denial.
4. On August 6, 2012, a hearing was conducted.

5. On August 31, 2012, a hearing decision was issued upholding the Department's denial of MA-P and retro MA-P benefits based upon Claimant being found capable of past employment.
6. On November 7, 2013, the Social Security Administration found Claimant disabled as of February 2012 based upon an application filed on October 13, 2011.
7. On November 7, 2013, Claimant's representative sent an email requesting the Department activate MA-P coverage three months prior to the Social Security decision date.
8. On November 26, 2013, the Department notified Claimant's representative that they were unable to activate MA-P coverage before the entitlement date of February 2012.
9. On November 27, 2013, Claimant's representative filed a hearing request.

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), and Department of Human Services Reference Tables Manual (RFT).

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.

In the instant case, Claimant's representative requested a hearing protesting the Department's decision regarding processing a request for three months of retro MA benefits based upon a Social Security Administration (SSA) decision. Claimant applied for MA-P benefits on December 28, 2011, with a request for retro MA-P back to November 2011. The Medical Review Team found Claimant not disabled for purposes of MA-P and retro MA-P on February 8, 2012. Claimant's representative filed a hearing request protesting this denial. Claimant was afforded a State level administrative hearing on August 6, 2012. Claimant was allowed to provide testimony and evidence regarding the alleged disability at this hearing. On August 31, 2012, a hearing decision was issued upholding the Department's denial of MA-P and retro MA-P benefits based upon Claimant being found capable of past employment.

On November 7, 2013, the Social Security Administration found Claimant disabled as of February 2012 based upon an application filed on October 13, 2011. Claimant's representative issued a request via email to have the Department reconsider the months of November and December 2011 as allowed by policy, specifically BAM 115.

The Department answered this request by indicating Claimant was previously afforded a review of the months in question.

This Administrative Law Judge has reviewed the policy asserted by Claimant's representative regarding processing a request for retro MA benefits in accordance with a Social Security Income (SSI) finding of disability. BAM 115 specifically articulates three months of retro MA benefits are available from the date of the SSI entitlement. The policy notes a person might be eligible for one, two or all three retro months, even if not currently eligible.

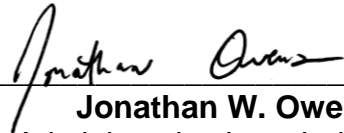
In the instant case, however, Claimant was approved by SSA as of February 2012 based upon an application filed on October 13, 2011. This application date indicates SSA considered the prior months and determined Claimant not disabled for those months. Claimant was granted the opportunity to litigate the matter at the State level and have the retro months in question considered. Claimant and/or Claimant's representative further had an opportunity to challenge this State level administrative decision and failed to do so. The only change noted in the case is a subsequent SSA determination, a determination that also denied the months of November and December 2011. The Department has fully demonstrated the months requested have been considered and Claimant was found not eligible for MA benefits for the months prior to the SSA determination.

Res judicata bars a subsequent action between the same parties when the facts or evidence essential to the action are identical to those essential to a prior action. *Sewell v Clean Cut Mgt, Inc*, 463 Mich 569, 575; 621 NW2d 222 (2001). The purposes of *res judicata* are to relieve parties of the cost and vexation of multiple lawsuits, conserve judicial resources, and encourage reliance on adjudication. *Pierson Sand & Gravel, Inc*, 460 Mich at 380. Under Michigan law, *res judicata* requires that: (1) the prior action was decided on the merits; (2) the decree in the prior action was a final decision; (3) the matter contested in the second case was or could have been resolved in the first; and (4) both actions involved the same parties or their privies. *Washington v Sinai Hosp of Greater Detroit*, 478 Mich 412, 418; 733 NW2d 755 (2007); *Richards v Tibaldi*, 272 Mich App 522, 531; 726 NW2d 770 (2006). The burden of establishing the applicability of *res judicata* is on the party asserting it. *Baraga County v State Tax Comm*, 466 Mich 264, 269; 645 NW2d 13 (2002).

Based upon the above, Claimant's claim would be barred by *res judicata*. The months have been considered by the Department and fully litigated and considered at both the state and federal level.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 15, 2014

Date Mailed: May 15, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

JWO/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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