

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-21950
Issue No.: 2011
Case No.: [REDACTED]
Hearing Date: March 26, 2014
County: Washtenaw (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 March 26, 2014, from Detroit, Michigan. Participants included [REDACTED] as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED] Assistant Prosecutor.

ISSUE

The issue is whether DHS properly denied Claimant's Medical Assistance (MA) application due to a failure to cooperate with obtaining child support.

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 [REDACTED], DHS determined Claimant to be uncooperative with obtaining child support.
2. On an unspecified date, DHS imposed a child support disqualification against Claimant.
3. On [REDACTED], Claimant applied for MA benefits.

4. Claimant's application listed an authorized representative (AR) who was also Claimant's AHR.
5. DHS failed to mail a Verification Checklist to Claimant or Claimant's AR/AHR concerning how to comply with child support.
6. On [REDACTED] DHS denied Claimant's MA application due to Claimant's ongoing child support disqualification.
7. On [REDACTED], Claimant's AR/AHR requested a hearing to dispute the MA application denial.

CONCLUSIONS OF LAW

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute the denial of an application requesting MA benefits. It was not disputed that DHS denied the application due to a previously imposed child support disqualification against Claimant.

At application, a client has 10 days to cooperate with the OCS. BEM 255 (10/2013), p. 12. Bridges informs the client to contact the OCS in the verification checklist (VCL). *Id.* 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; see Good Cause For Not Cooperating in this item.

Id.

DHS denied Claimant's application the day after the application was submitted to DHS. This was compelling evidence that DHS did not issue a VCL to Claimant or Claimant's AR advising either of the obligation to cooperate with OCS. During the hearing, DHS conceded that a VCL was not issued to Claimant or her AR. It is found that DHS did not issue a VCL to Claimant or Claimant's AR concerning Claimant's obligation to cooperate with OCS.

During the hearing, DHS presented testimony tending to establish that Claimant is purposefully not cooperating in obtaining child support. The testimony was compelling enough that consideration was given to finding DHS' obligation to mail a VCL was not a relevant factor in Claimant's lack of cooperation with OCS.

The presented evidence tended to establish that Claimant has knowledge of her child support cooperation obligation. The evidence also tended to establish that Claimant purposely missed many interview appointments to establish child support cooperation.

Claimant's AHR testified that Claimant reported to the AR/AHR that she made attempts to contact OCS to establish paternity for a child. The hearsay statements were not compelling evidence that Claimant was compliant in meeting child support obligations. Claimant's failure to appear for the hearing was found to be more representative of Claimant's lackluster efforts in establishing paternity.

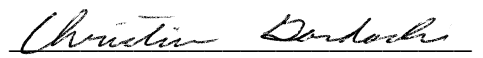
Despite Claimant's apparent evasiveness, DHS failed to meet a procedural obligation before denying Claimant's MA application. DHS must comply with the procedural obligation to mail Claimant and her AR a VCL before a consideration of child support compliance can be made.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA benefits. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's MA application dated [REDACTED]; and
- (2) process Claimant's application subject to the finding that DHS must mail Claimant and her AR a VCL informing both parties of the obligation to cooperate with OCS.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/10/2014

Date Mailed: 4/10/2014

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

CG/hw

cc:

