

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201431340
Issue No(s): 2011
Case No.: [REDACTED]
Hearing Date: May 5, 2014
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 May 5, 2014, from Walled Lake, Michigan. Participants on behalf of Claimant included [REDACTED], hearing representative with [REDACTED]; Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's November 15, 2013 application for Medical Assistance (MA) benefits, with request for retroactive MA coverage for October 2013, because of her noncooperation child support reporting obligations?

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 November 15, 2013, the AHR filed an MA application on Claimant's behalf with a request for retroactive coverage to October 2013.
2. On November 22, 2013, the Department sent Claimant and the AHR a Verification Checklist (VCL) requesting, among other things, that Claimant contact OCS and resolve a child support noncooperation issue by December 2, 2013.
3. On December 4, 2013, the Department sent Claimant a Notice of Case Action denying the application.

4. On March 3, 2014, the AHR filed a request for hearing disputing the Department's actions.

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; 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.

As a preliminary matter, the Department contended that the AHR's hearing request was not timely submitted. A hearing request must be received by the Department within 90 days from the date of the written notice of case action. BAM 600 (March 2014), p. 6. In this case, the Department sent Claimant and the AHR notice denying the MA application on December 4, 2014. Although the Department contended that the AHR's request for hearing was received on March 5, 2014, more than 90 days after the December 4, 2013 Notice of Case Action, the Department did not present any evidence establishing its receipt date. However, the AHR presented a fax confirmation sheet showing that it faxed the request for hearing to the Department on March 3, 2014, making its hearing request timely. Based on the evidence presented, the AHR's hearing request was timely filed, and the merits of the request were addressed at the hearing.

The December 4, 2013 Notice of Case Action denied Claimant's MA application because Claimant failed to cooperate with her child support reporting obligations. Department policy requires that the custodial parent 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, the Department must notify the client of an Office of Child Support (OCS) noncooperation through a VCL. BEM 255, p. 12. If the client fails to cooperate with OCS on or before the VCL due date, the client is disqualified from MA eligibility if (i) the child for whom support/paternity action is required receives MA and (ii) the client and child live together. BEM 255, pp. 11, 12, 13.

In this case, the Department notified Claimant and the AHR in a November 22, 2013 VCL that Claimant was required to cooperate with OCS to establish MA eligibility. An attempt was made to have OCS participate in the hearing, but the hearing proceeded in OCS's absence when there was no response to the phone call after 10 minutes. However, OCS did provide a hearing packet in which it acknowledged that Claimant had informed it that the child's father was deceased but that she never provided a death certificate as requested despite a series of contact letters sent to her. The AHR contended that a copy of birth certificate had been provided to the Department but acknowledged that she did not know when the copy was provided or if a copy was provided to OCS. Although the AHR argued that the notices from OCS to Claimant were all in English and Claimant was a Spanish-speaking native in need of correspondence in English, Claimant did not appear at the hearing to establish that she did not understand her responsibilities because of a language barrier.

Because Claimant's child received MA and the child and Claimant lived together, 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 acted in accordance with Department policy when it denied Claimant's MA application.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 16, 2014

Date Mailed: May 16, 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

ACE/tlf

cc:

