

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-8048
Issue No.: 2007
Case No.: [REDACTED]
Hearing Date: January 13, 2014
County: Oakland (04)

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, a telephone hearing was held on January 13, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) submitted on behalf of Claimant's niece.

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] 13, Claimant submitted an application to DHS requesting MA benefits for her niece.
2. Claimant's application stated that Claimant's niece lived with her.
3. At the time of Claimant's application submission, Claimant's niece was listed as a household member at a separate address.
4. On an unspecified date, DHS denied Claimant's MA application for the reason that Claimant's niece was living at another address.

5. On [REDACTED] 13, Claimant requested a hearing to dispute the denial of her MA benefit application.

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 an MA application denial. Claimant only disputed the denial of MA benefits for her niece. DHS denied Claimant's MA application for her niece for the reason that DHS believed that Claimant's niece did not live with Claimant.

Only persons living with one another can be in the same group. BEM 211 (7/2013), p. 2. Living with others means sharing a home where family members usually sleep, except for temporary absences. *Id.*

DHS presented testimony that Bridges, the DHS database, listed Claimant's niece as a household member with Claimant's niece's mother, but not with Claimant. DHS contended that because the DHS database identified Claimant's niece living at a separate address from her, Claimant was not entitled to obtain MA benefits for her niece.

DHS testimony alleged that Claimant reported information conflicting with Bridges. DHS is to verify the primary caretaker when questioned or disputed. BEM 211 (7/2013), p. 8.

When DHS encounters such a conflict, DHS is expected to take steps to resolve the conflict. DHS presented testimony that they requested an investigation to determine the residential address for Claimant's niece. DHS conceded that they had no knowledge of the investigation's status. DHS also failed to present evidence that any other steps were taken (e.g. asking Claimant for proof of her niece's address) in resolving the conflict. It is found that DHS failed to attempt to verify Claimant's niece's primary caretaker. Accordingly, the application denial was improper.

A typical remedy for a dispute in primary caretaker is to order DHS to seek verification from Claimant to determine her status as her niece's caretaker. Further analysis is appropriate to determine if Claimant's status as a caretaker is disputed.

DHS conceded that Claimant's niece was not a benefit recipient with her mother. If Claimant's niece received DHS benefits at her mother's address, then DHS has some

basis to question her status as a caretaker. There is no known significance to Bridges listing Claimant's niece as living with her mother if Claimant's niece is not a benefit recipient. Presumably, Bridges only lists Claimant's niece as living with her mother because Claimant's niece lived with her mother the last time that she was part of a group receiving DHS benefits. Once Claimant's niece stopped receiving benefits, Bridges does not have to update Claimant's niece's whereabouts. In other words, it is not a conflict to claim that Claimant's niece currently lives with her despite receiving benefits at a different address in the past. Based on the presented evidence, DHS has no basis to question Claimant's status as her niece's primary caretaker.

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 application dated [REDACTED] 13 requesting MA benefits for her niece; and
- (2) process Claimant's niece's MA eligibility subject to the finding that Claimant's niece is a household member with Claimant.

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



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

Date Signed: February 3, 2014

Date Mailed: February 3, 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/tlf

cc:

