

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

IN THE MATTER OF:

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

Reg. No.: 15-001999
Issue No.: 2001
Case No.: ██████████
Hearing Date: March 18, 2015
County: WAYNE-41 (FORT WAYNE)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 three-way telephone hearing was held on March 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████ of ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Medical Contact Worker.

ISSUE

Did the Department properly process an Administrative Order issued on September 10, 2014 by Administrative Law Judge (ALJ) Robert J. Chavez?

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 September 10, 2014, ALJ Robert J. Chavez issued an administrative decision and order, requiring the Department to "process Claimant's MA-P application of August 8, 2013, and award all benefits that Claimant is entitled to receive under the appropriate regulations".
2. This decision found Claimant disabled with an onset date of at least May, 2013.
3. The Department has yet to implement this order, and did not appeal this order, or request reconsideration or rehearing.
4. The Department opened MA benefits to August, 2013, and disregarded Claimant's retroactive MA application filed on August 8, 2013.

5. On February 9, 2015, Claimant requested an administrative hearing.

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.

Additionally, per BAM 600, the Department is to implement an administrative decision and order within 10 days. The undersigned has no power to review the original decision, and, as there has been no request for reconsideration or rehearing, is procedurally barred from examining the original decision itself.

The undersigned may only consider whether the Department has implemented the decision in question.

In the current case, the Department admits that the current decision has yet to be implemented. As such, the Department has failed to follow policy.

Furthermore, when the Administrative Law Judge (who is in fact, the writer of this current decision) ordered the Department to process Claimant's MA-P application of August 8, 2013, the undersigned meant that all parts of the application, including the retroactive MA application filed as part of the initial application, be processed. The undersigned did not mean that only part of the application was to be processed.

"Process the application" does, in fact, mean process the entire application.

Furthermore, as the undersigned found in that decision that Claimant was disabled to at least May, 2013, Claimant was found to have met all disability requirements to May, 2013. An RSDI approval by the Social Security Administration with an onset date of October 25, 2013 does not challenge or in any way change the finding of the undersigned. BEM 260, pg. 3 (2014).

Therefore, as the Department has failed to fully implement the decision made by the undersigned on September 10, 2014, the Department is in error, and must remedy this error immediately.


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 did not act in accordance with Department policy when it failed to implement the administrative decision of September 10, 2014 by ALJ Robert J. Chavez.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

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. Implement the September 10, 2014 Administrative Decision and Order of ALJ Robert J. Chavez.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/30/2015**

Date Mailed: **3/30/2015**

RJC / tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]