

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-003660  
Issue No.: 2001  
Case No.: [REDACTED]  
Hearing Date: May 07, 2015  
County: Jackson

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

**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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 7, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], [REDACTED], Authorized Hearing Representative (AHR). Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] Family Independence Manager. [REDACTED], Program Manager, was also present for a portion of the hearing proceedings.

**ISSUE**

Did the Department properly determine Claimant's non-medical criteria eligibility for a December 3, 2010, application for Medical Assistance (MA) and retroactive MA pursuant to a January 24, 2013, Amended Hearing Decision?

**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 3, 2010, Claimant applied for MA and retroactive MA alleging disability.
2. On January 24, 2013, an Amended Hearing Decision was issued finding Claimant disabled and ordering the Department to initiate a review of the application, if it had not already done so, to determine non-medical criteria eligibility, and to inform Claimant of the determination in writing.
3. The Department did not present any evidence that notice of a determination of non-medical criteria eligibility for the December 3, 2010, application for MA and retroactive MA, was issued to Claimant after the January 24, 2013, Amended Hearing Decision.

4. On March 5, 2015, Claimant filed a Hearing Request contesting the Department's failure to act following the January 24, 2013, Amended Hearing Decision.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance. (underline added by ALJ)

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2015), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In this case, the Department's request for a dismissal based upon the hearing request being filed beyond the 90-day time limit was denied. The Hearing Request was not filed to contest a prior notice of case action. Rather, the Hearing Request stated the AHR had not received a Verification Checklist or an eligibility notice since the January 24, 2013, Amended Hearing Decision. The above cited regulation clearly states that an opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness.

On January 24, 2013, an Amended Hearing Decision was issued finding Claimant disabled and ordering the Department to initiate a review of the application, if it had not already done so, to determine non-medical criteria eligibility, and to inform Claimant of the determination in writing.

The Department did not present any evidence that notice of a determination of non-medical criteria eligibility for the December 3, 2010, application for MA and retroactive MA, was issued to Claimant after the January 24, 2013, Amended Hearing Decision.

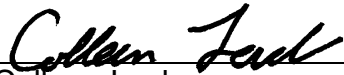
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy to determine Claimant's non-medical criteria eligibility for a December 3, 2010, application for MA and retroactive MA pursuant to the January 24, 2013, Amended Hearing Decision.

### **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. If not already done, determine Claimant's non-medical criteria eligibility for MA and retroactive MA for the December 3, 2010, application in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



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Colleen Lack  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **5/26/2015**

Date Mailed: **5/26/2015**

CL/jaf

**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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

