

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

IN THE MATTER OF:



Reg. No.: 15-007181
Issue No.: 2004
Case No.: [REDACTED]
Hearing Date: June 23, 2015
County: OGEMAW

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 June 23, 2015, from Lansing, Michigan. Participants on behalf of Claimant included her husband and [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist (ES) [REDACTED] and AP Supervisor [REDACTED].

ISSUE

Did the Department delay processing Claimant's June 16, 2014, Medical Assistance application for a patient of a nursing facility beyond standards of promptness?

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 June 16, 2014, a Medical Assistance application for a patient of a nursing facility and an Initial Asset Assessment were submitted.
2. On October 10, 2014, a Verification Checklist (DHS-3503) was issued by the Department.
3. On January 6, 2015, another Verification Checklist (DHS-3503) was issued by the Department.
4. On January 30, 2015, the Medical Assistance application was processed and Claimant was found not eligible due to excess assets.
5. On February 5, 2015, Claimant's husband paid Claimant's nursing home care expenses.

6. On February 26, 2015, another Medical Assistance application was submitted.
7. On April 16, 2015, Claimant's February 26, 2015, Medical Assistance application was processed and Claimant was found eligible beginning February 2015.
8. On April 22, 2015, Claimant's spouse submitted this hearing request.

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.

The issue raised in this hearing request is that the June 16, 2014 application was not processed timely, which caused several months of denied eligibility. Claimant does not dispute the Department's determination that Claimant was not eligible due to excess assets. The idea asserted is that if the Department had processed the June 16, 2014 application within the standard of promptness, Claimant's husband would have been able to spend down the excess assets sooner and Claimant would have been eligible sooner than February 2015.

Bridges Administration Manual (BAM) 600 Hearings, at page 4, does provide for jurisdiction about delay of any action beyond standards of promptness. Additionally, the hearing request was submitted within 90 days of the eligibility determination notice. The Department does not dispute that neither the Medical Assistance application nor the Initial Asset Assessment were completed within the standard of promptness contained in Bridges Administration Manual (BAM) 115 Application Processing.

The evidence in this record supports a decision that the Department did not process Claimant's Medical Assistance application within the standard of promptness contained in Bridges Administration Manual (BAM) 115 Application Processing. There is no obvious logical flaw in the assertion that a quicker eligibility determination could have resulted in a quicker spend down of the excess assets. Neither is there any obvious logical flaw in the speculation that the quicker spend down of the excess assets may have resulted in earlier eligibility.

The scope of inquiry in an Administrative Law Hearing on Department of Health and Human Services' actions is to determine if a Department's eligibility determination is in accordance with Department policy. If an eligibility determination is determined not to be in accordance with policy, authority exists to order the Department to re-determine a Claimant's eligibility and issue a current notice of the redetermination.

The only know context of a situation where the Department has delayed any action beyond standards of promptness, is when no action has been taken. In a matter where the Department has delayed any action beyond standards of promptness, no notice has been issued of a required eligibility determination. In those situations, authority exists to order the Department to make the required eligibility determination. Compliance with that order would require applying the determination back to the date of an application/redetermination or back to the effective date of change for the required eligibility determination.

Even if an order was issued for the Department to issue a backdated eligibility determination for the June 16, 2014, Medical Assistance application, there is absolutely no provision in policy for backdating the February 26, 2015 application. There is no remedy within the jurisdictional limitations of this hearing which can provide the relief Claimant seeks.

The scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, states:

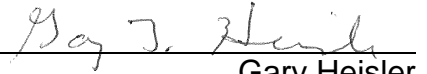
Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940); *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542, 303 NW2d 35 (1981); *Delke v Scheuren*, 185 Mich App 326, 460 NW2d 324 (1990), and *Turner v Ford Motor Company*, unpublished opinion per curium of the Court of Appeals issued March 20, 2001 (Docket No. 223082).

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 delayed processing Claimant's June 16, 2014, Medical Assistance application for a patient of a nursing facility beyond standards of promptness.

DECISION AND ORDER

Accordingly, while the Department delayed processing Claimant's June 16, 2014, Medical Assistance application for a patient of a nursing facility beyond standards of promptness, the Department's decision that Claimant was not eligible due to excess assets is **AFFIRMED**.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/6/2015**

Date Mailed: **7/6/2015**

GFH / 

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:

