

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

IN THE MATTER OF:

[REDACTED]

[REDACTED] No.: 15-005194
Issue No.: 2000, 2002, 2004
Case No.: [REDACTED]
Hearing Date: May 19, 2015
County: Montcalm

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on May 19, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and her husband [REDACTED]. Participants on behalf of the Department included [REDACTED], as hearings facilitator.

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's eligibility for Medical Assistance (MA) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing Medical Assistance (MA) recipient on August 12, 2014, when the Department sent her a Redetermination (DHS-1010).
2. On September 19, 2014, the Department notified the Claimant that it would close her Medical Assistance (MA) benefits effective October 1, 2015.
3. On September 25, 2014, the Claimant returned the DHS-1010.
4. On January 5, 2015, the Claimant submitted an application for Medical Assistance (MA).
5. On March 27, 2015, the Department received the Claimant's request for a hearing.
6. On April 1, 2015, the Department stopped processing the Claimant's January 5, 2014, application for Medical Assistance (MA), and requested a help desk ticket to restore the benefits closed as of October 1, 2014.

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.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (April 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.

On September 19, 2014, the Department sent the Claimant notice that it would close her Medical Assistance (MA) benefits effective October 1, 2014, for failure to provide the Department with information necessary to determine her eligibility to receive continuing benefits. The Department concedes that this closure was improper since the

Claimant had returned the required Redetermination (DHS-1010) form but it was misplaced by the Department.

Despite the Department's admission of its error, this Administrative Law Judge does not have the authority to order the Department to reverse the September 19, 2014, closure of MA benefits. Department policies allow the Michigan Administrative Hearing System (MAHS) the authority to grant a hearing where a client of the Department requests a hearing within 90 days of the Department's notice of its intended case action. In this case, the Claimant did not request a hearing within 90 days of the MA closure effective October 1, 2014. This decision does not affirm this closure of benefits, but does not reverse the closure either.

On January 5, 2015, the Claimant re-applied for Medical Assistance (MA) and Department policy allows her to request retroactive benefits back to October 1, 2014, if her application is approved and she meet all the criteria for MA benefits. Department of Health and Human Services Bridges Administrative Manual (BAM) 115 (January 1, 2015), pp 11-14.

When the Department attempted to correct its mistaken closure of MA benefits effective October 1, 2014, it withdrew the January 5, 2015, application for benefits.

This Administrative Law Judge finds that the closure of MA benefits effective October 1, 2014, does not fall within the jurisdiction of MAHS because the hearing request was not received within 90 days of the Department's notice of MA closure. BAM 600.

This Administrative Law Judge finds that the Department failed to justify its failure to process the January 5, 2015, application for assistance and has not issued an approval or denial of benefits within 45 days. Therefore, there has been a delay of any action beyond the standard of promptness. Department of Health and Human Services Bridges Administrative Manual (BAM) 115 (January 1, 2015), p 15.

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 denied Medical Assistance (MA) as of January 1, 2014, and retroactive benefits as of October 1, 2014.

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. Reprocess the January 5, 2015, application for assistance and initiate a determination of the Claimant's eligibility for Medical Assistance (MA).

2. Allow the Claimant the opportunity to request retroactive Medical Assistance (MA) based on her January 5, 2015, application for assistance if she meet all the criteria for benefits.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/28/2015**

Date Mailed: **5/28/2015**

KS/las

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:

