



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 17, 2016
MAHS Docket No.: 16-004657
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner'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 three-way hearing was held on [REDACTED], [REDACTED] from Detroit, Michigan. The Petitioner was represented by [REDACTED] the Petitioner's Authorized Hearing Representative (AHR). The Petitioner did not appear. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator. [REDACTED], Lead Worker, Office of Child Support, also appeared as a witness.

ISSUE

Did the Department properly process the Petitioner's application for Medical Assistance (MA)?

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 Petitioner applied for MA on [REDACTED], and Retro MA on [REDACTED].
2. The Department never processed the Petitioner's MA applications.
3. The Department failed to issue a Verification Checklist (VCL) regarding eligibility requirements including a verification that the Petitioner was in noncooperation with the Office of Child Support (OCS) as of [REDACTED].

4. On the day of the hearing, the OCS issued a cooperation letter effective [REDACTED], based upon inquiry from the Department to OCS and at that time, based upon research of available information, determined they had information regarding the Petitioner's daughter already available, including Social Security Number birth date and full name.
5. At the hearing, the Petitioner's AHR provided an address for the absent parent, [REDACTED], to the OCS. The address given was [REDACTED]. The Absent parent had an ongoing case with the Department from [REDACTED], which recently closed.
6. The Petitioner's AHR requested a timely hearing on [REDACTED], protesting the Department's failure to process the Petitioner's MA application.

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.

In this case, the Department conceded that it had never processed the Petitioner's application for MA and Retro MA filed with the Department on [REDACTED]. The Department presented evidence at the hearing that the Petitioner was in noncooperation with the OCS at the time the application was filed. Notwithstanding, the fact that the Petitioner was in noncooperation, the Department failed to process the application and did not afford the Petitioner or the Petitioner's AHR 10 days to become in cooperation at the time the application was received. Department policy requires:

At application, client has 10 days to cooperate with the OCS. Bridges informs the client to contact the OCS in the verification check list (VCL). The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true:

- There is a begin date of non-cooperation in the absent parent logical unit of work.

- There is **not** a subsequent comply date.
- Support/paternity action is still a factor in the child's eligibility.
- Good cause has not been granted nor is a claim pending; see **Good Cause For Not Cooperating** in this item. BEM 255 (April 1, 2015), p. 12.

The Department failed to comply with this policy; and thus, the Petitioner and Petitioner's AHR had no opportunity to resolve the noncooperation. The Petitioner is the grandmother and custodial caretaker of the child in question. Also at the hearing, the OCS testified that it researched an earlier inquiry by the Department; and the then OCS worker who received the inquiry neglected to research the information already available in the OCS system. The OCS witness who testified at the hearing found that OCS already had information regarding the mother of the child in question, including her name, birth date and Social Security Number. At the hearing, the Petitioner's AHR also supplied the OCS with the current address of the Petitioner's daughter, the absent parent. The OCS then put the Petitioner in cooperation as of the inquiry date, [REDACTED]. Had the Petitioner been sent a verification request to identify the absent parent, the information could have been provided at the time of application.

As the Petitioner and the AHR never knew about the noncooperation and were never given an opportunity to cooperate with OCS at the time of the application as required by Department policy, and as the OCS already had information regarding the absent parent who also was a recipient of Department benefits until recently and that the OCS has the current address of the absent parent, it is determined that the OCS incorrectly determined the cooperation date. It is further determined that the Petitioner's AHR on behalf of Petitioner has provided critical additional information regarding the address of the absent parent, and thus, is in cooperation as of the hearing date, [REDACTED]. As the Department never processed the Petitioner's case as required by Department policy, the Department may no longer use noncooperation with child support as a basis to deny the application as the Petitioner is determined to be in cooperation.

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 process the Petitioner's application of MA and Retro MA and specifically also failed to seek verification of child support information of the absentee parent, the Petitioner's daughter.

DECISION AND ORDER

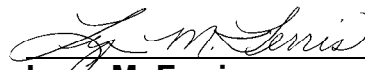
Accordingly, the Department's decision is **REVERSED**.

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. The Department shall process the Petitioner's MA and Retro MA application dated [REDACTED], and determine Petitioner's eligibility.
2. The Petitioner shall be found in cooperation regarding Child Support information as of the hearing date, [REDACTED]; and the Department shall not use the prior noncooperation as a basis for denying the [REDACTED], applications for MA and Retro MA.
3. The Department shall provide the Petitioner and the Petitioner's AHR a written notice regarding its eligibility determinations reading the [REDACTED], applications and any and all other correspondence it issues with respect to Petitioner's eligibility.

LMF/jaf



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

Counsel for Petitioner

[REDACTED]

DHHS

[REDACTED]

Department Representative

[REDACTED]

Petitioner

[REDACTED]

cc:

[REDACTED]