

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS & RULES
FOR THE DEPARTMENT OF HUMAN SERVICES**

P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:



Claimant

SOAHR Docket No. 2009-27688 REHD
DHS Reg. No: 2009-27464

_____ /

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 24.287(1) and 1993 AACRS R 400.919 upon the request of the Claimant's Authorized Representative. The undersigned Administrative Law Judge reviewed all documentary evidence, the hearing recording, the Decision and Order, and the Request for Reconsideration.

ISSUE

Did the Administrative Law Judge err in concluding that Claimant's Facility Admission Notice was not a valid application and did the Administrative Law Judge err in concluding that the Claimant's request for hearing was not timely?

FINDINGS OF FACTS

This Administrative Law Judge, based upon the competent, materials and substantial evidence on the whole record, finds as material facts:

1. On August 22, 2008, Administrative Law Judge (ALJ) Colleen Mamelka issued a Hearing Decision in which the ALJ found that a Facility Admission Notice was "not a substitute for" a MA application. (, p. 3). ALJ Mamelka affirmed the Department of Human Services (DHS) denial of Claimant's June 2007 MA coverage. (D&O, p.3).
2. On June 5, 2009, the State Office of Administrative Hearings and Rules, Administrative Hearings (SOAHR) for the Department of Human Services received the Claimant's Request for Rehearing/Reconsideration.
3. On August 11, 2009, SOAHR granted the Claimant's request for reconsideration and issued a Notice of Reconsideration.

4. Findings of Fact 1-7 from the May 6, 2009 Hearing Decision are incorporated by reference
5. On July 26, 2007, Claimant's Facility Admission Notice was received in the Wayne County DHS office. (Ex 7).
6. On July 30, 2007, DHS sent Claimant and Application Eligibility Notice in which DHS informed the Claimant that his May 2007 medical assistance (MA) application was denied. (Ex 2).
7. No DHS negative action or denial notice was sent to the Claimant in response to Claimant's July 26, 2007, Facility Admission Notice.
8. On August 3, 2007 the DHS Medical Review Team (MRT) denied the Claimant's July 26, 2007 Facility Admission Notice.
9. On November 28, 2007, the Claimant signed an authorization for [REDACTED] [REDACTED] to represent him.
10. DHS subsequently approved the Claimant's for Medical Assistance eligibility with retroactive MA beginning July 2007. (11/20/08 Hearing Summary).
11. On June 12, 2008, the DHS received Claimant's request for hearing filed by [REDACTED] submitted the request for hearing to prompt the Wayne County DHS to provide the Claimant with a DHS/FIA-1150/4598 Hearing Summary and negative action or denial notice addressing the July 26, 2007 MA application/Facility Admission.

CONCLUSIONS OF LAW

The Medical Assistance (MA or Medicaid) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105; MSA 16.490(15). Agency policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), and the Program Glossary (PRG).

In her August 22, 2008, Decision and Order the Administrative Law Judge found that a Facility Admission Notice was "not a substitute for" a MA application. (D&O, p. 3).

In the Request for Reconsideration Claimant's representative argued that DHS should have considered the July 26, 2007 Facility Admission Notice as a MA application and should have provided Claimant with notice of the DHS application disposition decision.

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DHS policy supports Claimant's assertions:

APPLICATION FILING AND REGISTRATION

MA Only

Receipt of a completed MSA-2565-C, Facility Admission Notice, serves as a **request** for MA for all persons except:

- Automatically eligible newborns (PEM 145).
- Active MA recipients.
- Pending MA or FIP applicants.


PAM 110, July 1, 2009, pp. 3 of 21.

DHS policy clearly provides that the DHS receipt of a completed MSA-2565-C, Facility Admission Notice, serves as a request for MA. The ALJ erred when she concluded that the Claimant's July 2007 Facility Admission Notice did not serve as a valid MA application. The Claimant's representative further argues that if DHS had approved the Claimant's July 26, 2007 Facility Admission Notice that DHS would have approved MA eligibility retroactive to June 2007. DHS staff indicated on the July 2007 Facility Admission Notice that the notice was denied by the DHS MRT. No copy of the MRT denial was provided in the case file for the July 26, 2007 Facility Admission Notice. The Case file contained a June 28, 2007, denial for a January 18, 2007 application. The evidence provided in the November 20, 2008, Hearing Summary indicated that the DHS approved the Claimant Medicaid Coverage effective July 1, 2009. Therefore the only month in issue is June 2007(the month of the Claimant's hospitalization).

In the present case, there is no evidence the DHS sent the Claimant or his authorized representative a DHS Application Eligibility Notice which indicated that DHS had denied the Claimant's July 26, 2007 MSA-2565-C, Facility Admission Notice. Therefore the 90 day period to request a hearing had not expired when DHS received the Claimant's request for hearing. In the absence of a negative action notice, the Claimant may not be penalized and may file a request for a Medicaid Fair Hearing at any time. The Claimant's hearing request received by DHS on June 12, 2008, was timely. The ALJ erred when she concluded that the Claimant's June 2008 request for hearing exceeded the 90-day request time period and was not timely.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Administrative Law Judge erred in her finding that Claimant's Facility Admission Notice was not a valid application for Medicaid and Retroactive


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Medicaid (MA) benefits, and that Claimant had exceeded the time period for requesting a Medicaid Fair Hearing.

IT IS THEREFORE ORDERED that:

1. The Administrative Law Judge's decision dated May 7, 2009, is REVERSED.
2. DHS shall, if it has not already done so, process the Claimant's July 26, 2007, Facility Admission Notice and provide the Claimant and the Claimant authorized Hearing Representative with an Application Eligibility Notice. DHS shall allow the Claimant 90 days from the mailing of the Application Eligibility Notice to submit a request for hearing on a denial of the July 26, 2007 Facility Admission Notice. If DHS receives a request for hearing from the Claimant or his Authorized Hearing Representative DHS shall prepare a hearing Summary and provide the hearing packet to SOAHR for processing.

/s/ _____

Martin D. Snider
Administrative Law Judge
for Michigan Department of Human Services

cc:



Date Signed: August 27, 2009
Date Mailed: August 27, 2009

*****Notice*****

The Claimant may appeal this Rehearing Decision to Circuit Court within 30 days of the mailing of this Rehearing Decision.