

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 2010-44706
Issue No.: 2012
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 21, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on October 21, 2010. The claimant appeared and testified. The Claimant was represented by his Authorized Representative (AR), [REDACTED] through [REDACTED]. [REDACTED], Lead ES Worker and [REDACTED], ES also appeared on behalf of the Department.

ISSUE

Whether the Department is required to process and register the Claimant's applications for Medicaid Assistance and Retroactive Medical Assistance filed March 20, 2010?

FINDINGS OF FACT

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

1. On March 20, 2009 the claimant's authorized representative forwarded to the department via Federal Express an application for medical assistance together with release of information, authorization to represent and a retro active Medicaid application seeking Medicaid coverage retroactive to January 1, 2009. (Claimant Exhibits 1 through 4)
2. The application was signed by the claimant and a patients advocate. (Claimant Exhibit 5)
3. The claimant's application, if received by the Department was never processed.

4. Thereafter, the claimant's representative continued to attempt to communicate in writing with the Department on several occasions by letter requesting status of the claimant's application and seeking a verification checklist, (May 6, 2009, seeking registration of the application; June 3, 2009, again seek registration and processing of the application; June 29, 2009, and sending the same request for registration and processing; July 29, and August 28, 2009, and finally on October 23, requesting assistance with locating the status of the application.) The communications were verified by either FedEx mailing or proof of fax verification. To the DHS Wayne County office 82. (Claimant Exhibits 6 through 11.)
5. Subsequently, the authorized representative, after receiving no response from the department, filed a hearing request on behalf of the claimant on December 18, 2009 seeking a hearing as to why the claimant's application had not been processed and attaching the application, the retroactive application, and the appearance of authorized representative, authorization to represent and authorize release of information. (CL Exhibit 12)
6. The department could not determine whether it received the application as it had no record in its computer system of the application and also noted that the claimant had been granted medical assistance as of December 2009 retroactive to September 2009. The Department also indicated that no determination of eligibility or other case action was taken by the Department.
7. The Department's hearing summary, advised that the Claimant's authorized representative failed to file its hearing request in a timely manner, within the 90 days of receipt of a written notice of case action.
8. The claimant through an authorized representative filed a request for a hearing on December 18, 2009.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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The Department's hearing summary provided that the Claimant's representative failed to file its request for hearing within 90 days of the Notice of Case Action. BAM 600, page 4. Based on the testimony of the Department at the hearing and the record presented, the hearing request must be deemed timely as no negative action was ever taken by the Department from which the Claimant's representative could appeal. Therefore the Claimant's hearing request was timely based on the record presented. BAM 600, page 3.

As regards the Department's responsibilities to register and process applications, these policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Manual (PRM).

BAM 110, page 6 requires:

An application or filing form, with minimum information, must be registered on ASSIST unless the client is already active for that program(s).

BAM 105, page 1 requires:

An application or filing form, whether faxed or mailed, must be registered with the receipt date.

It is clear the Department never registered the Medical Assistance application sent to the Department on March 20, 2009. It cannot be determined what happened to the application. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

In this case the Department had no record of any application in its system but such fact by itself is not sufficient to rebut the presumption of receipt.

Given these facts and the record as a whole the undersigned finds that the Department's failure to register the Claimant's Medical Assistance application signed February 2, 2009 and Retroactive Medical application dated February 2, 2009 was in error.

DECISION AND ORDER

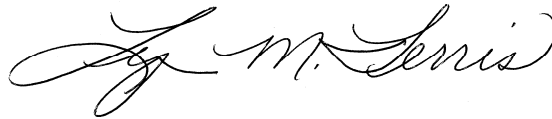
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's action and failure not to register and process the

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Claimant's Medical Assistance application and retroactive application for Medical Assistance was in error.

Accordingly, the Department's decision is REVERSED.

The Department is ORDERED to register and process the Claimant's Medical Assistance application dated March 2, 2009 and sent March 20, 2009 and Retroactive Medical Assistance application dated March 2, 2009 and sent March 20, 2009. the Department is also ordered to issue a notice of eligibility within the timeliness requirements as provided by Bridges Policy.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/25/2010

Date Mailed: 10/25/2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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