

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201214604
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: October 18, 2012
County: Washtenaw DHS (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, an in-person hearing was held on October 18, 2012 from Ypsilanti, Michigan. Participants included [REDACTED] who testified and appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Supervisor.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) benefits due to Claimant's alleged failure to submit verifications.

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 3/3/11, DHS received an application on behalf of Claimant requesting MA benefits.
2. The submitted application noted that Claimant had an authorized representative (AR).
3. On an unspecified date, DHS mailed Claimant a Verification Checklist (VCL) requesting verification of unspecified information.
4. DHS failed to send Claimant's representative the VCL.

5. On 5/21/11, DHS mailed a Notice of Case Action to Claimant denying the MA benefit application for an alleged failure to verify information.
6. The Notice of Case Action was not mailed to Claimant's representative.
7. On 10/21/11, Claimant's AHR requested a hearing to dispute the failure by DHS to process Claimant's MA benefit application.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS 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 Reference Tables Manual (RFT).

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (4/2011), p. 4. The request must be received anywhere in DHS within the 90 days. *Id.*

DHS initially contended that the hearing request of the AHR was not timely submitted. DHS cited the 10/21/11 hearing request submission date as being more than 90 days after the 5/21/11 denial date. Claimant's AHR responded that the 90 day timeline cannot run from 5/21/11 because DHS failed to give the AHR notice of the denial.

An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (for example, to obtain FAP benefits for the group). BAM 110 (1/2011), p. 7. The AR assumes all the responsibilities of a client. *Id.*, p. 8. It is implied that the AR also receives procedural rights of a client. One of those rights is the right to receive notices of DHS case actions. DHS conceded that Claimant's AR never received a written notice of the application denial. Thus, the 90 day time period could not have begun to run because DHS never mailed a written notice to Claimant's AR. It is found that the hearing request was timely submitted.

At this point of the analysis, it would be wholly appropriate to end the decision with an order that DHS provide written notice of the case action to Claimant's AR. The AHR (also Claimant's AR) additionally requested a decision concerning the correctness of the application denial.

Typically, administrative hearing issues are limited to issues raised in the hearing request. The limitation is inspired primarily to prevent DHS from having to defend actions for which they received no notice of a dispute. The present case allows for an exception to the general rule.

In the present case, DHS was aware that the AR would dispute the reason for the denial as well as the lack of notice of the denial. In fact, DHS addressed both issues in the

submitted Hearing Summary. Also, it is somewhat unfair to require the AHR to request multiple hearings simply because DHS failed to give notice of the denial. It is found that the dispute concerning the correctness of the application denial is appropriate for administrative hearing review.

It was not disputed that the basis for the application denial was a failure to verify information in response to a VCL. Claimant's AR contended that DHS might have mailed a VCL to Claimant, but one was not sent to the AR. DHS contended that the AR received a copy of the VCL and failed to timely return requested verifications.

DHS presented testimony that their computer system verified that the VCL was "centrally printed" during the time the MA benefit application and was "locally printed" the following day. The testifying DHS representative clarified that the DHS database automatically addresses and stamps correspondence to clients but that the system is unable to do the same for mail to authorized representatives. When documents are required to be mailed to representatives, the DHS practice is to print the documents one day after their mailed to clients and to manually address and stamp the envelope. DHS contended that it was verified that a VCL was centrally printed and locally printed one day later and this tends to verify a mailing to the AR.

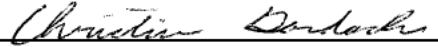
The DHS evidence was only mildly persuasive in verifying a mailing to the AR. Under the circumstances of the present case, it is probable that the specialist intended to mail a VCL to Claimant's AR. It is much less certain that such a mailing occurred. No testimony from the specialist was presented. There were no "case comments" from the specialist to state that a mailing of the VCL to the AR occurred. Further, DHS conceded that the specialist failed to give notice of the application denial to the AR; it would not be a stretch to assume the same occurred with the VCL. Based on the presented evidence, it is found that DHS failed to mail a VCL to Claimant's AR. Accordingly, the MA benefit application denial based on a failure to verify information is found to be improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA benefits. It is ordered that DHS:

- (1) reinstate Claimant's MA benefit application dated 3/3/11, including any request for retroactive MA benefits.
- (2) process Claimant's application subject to the finding that Claimant's AR has yet to receive a VCL concerning any information in need of verification.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/26/2012

Date Mailed: 10/26/2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

