

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

IN THE MATTER OF:



Reg. No.: 201249991
Issue No.: 2012
Case No.: [REDACTED]
Hearing Date: August 8, 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 August 8, 2012 from Ypsilanti, Michigan. [REDACTED] testified and appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, who appeared by telephone.

ISSUE

The issue is whether DHS properly failed to process Claimant's application 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. On an unspecified date, Claimant's authorized representative sent an Assistance Application to DHS via certified mail.
2. Claimant's Assistance Application sought MA benefits including retroactive MA benefits for 12/2011.
3. The United States Postal Service verified that the certified mailing of Claimant's application was received by DHS on 1/24/12.
4. DHS failed to process Claimant's application because it was supposedly not received.

5. On 4/26/12, Claimant requested a hearing to dispute the failure by DHS to process Claimant's application for MA benefits.

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).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

The DHS-1171 is used for most applications and may also be used for redeterminations. BAM 110 at 3. The date of application is the date the local office receives the required minimum information on an application or the filing form. *Id.* at 4. An application or filing form, with the minimum information, must be registered on Bridges (the DHS database) unless the client is already active for that program. *Id.* at 6.

Claimant's AHR contended that an Assistance Application was received by DHS on 1/24/12. It was not disputed that DHS failed to process the application. DHS contended the application was not processed because it was never received by DHS

To verify the application submission, Claimant presented various pieces of evidence. Claimant presented a stamped certified mail receipt, a postcard verifying completion of the certified mailing and a print-out from the USPS website verifying delivery of a package on 1/24/12 in Lansing, Michigan. The DHS office address was written on the certified mail receipt and return postcard, presumably by the sender. Thus, there was not independent confirmation of the specific delivery address.

Typically, Claimant's evidence would be persuasive enough to verify submission of a document. In the present case, the address on the certified mail receipt and return postcard was whited-out and rewritten. Though there may be innocent reasons for whiting-out an address, there are also not so innocent reasons for doing so; one such example would be if the sender was negligent in mailing Claimant's application and a cover-up was attempted by using documents associated with a different case. The white-out was compelling evidence of such a cover-up. For such a cover-up to be sensible, it should be established that the sender had no legitimate alternatives to a cover-up.

In the present case, it was established that the sender was in contact with DHS as early as 2/2012 concerning whether Claimant's application was received by DHS. As of

2/2012, Claimant could have submitted an application to DHS seeking retroactive MA benefits for 12/2011 (DHS allows three full months of potential retroactive MA coverage). The 2/2012 communication between the sender and DHS establishes that the sender believed that an application was sent to DHS at a time when the sender could have ethically corrected prior negligence in an application submission. This tends to support a finding that there was not a cover-up of negligence. It is found that a certified mailing was made to DHS in 1/2012.

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). DHS noted that Claimant's application was not registered and that the signature on the certified mail receipt is not known to be a DHS employee. Though it is reasonably possible that the USPS misdelivered Claimant's application, the failure to deliver appears to be no fault of Claimant or the representative. It is found that there was a presumption of receipt of Claimant's application submission. Accordingly, it is found that DHS erred by failing to process Claimant's application.

DECISION AND ORDER

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

- (1) reinstate Claimant's application dated 1/24/12 requesting MA benefits including retroactive MA benefits for 12/2011; and
- (2) process Claimant's application in accordance with DHS regulations.

The actions taken by DHS are REVERSED.



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

Date Signed: August 13, 2012

Date Mailed: August 13, 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:

