

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

IN THE MATTER OF:



Reg. No: 2012-13457
2011-49907

Issue No: 2012



Hearing Date:

October 5, 2011
Genesee County DHS-05

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on October 5, 2011. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance Program Benefits?

FINDINGS OF FACT

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

- (1) On February 23, 2011, [REDACTED] filed an application for Medical Assistance and Retroactive Medical Assistance on claimant's behalf.
- (2) The department caseworker determined that the application was not valid or complete because [REDACTED] did not provide a signed Authorization to Represent form and the claimant had not signed the application.
- (3) On March 24, 2011, the Department caseworker sent [REDACTED] a DHS 723 Incomplete Application Notice stating that they had ten days to return an Authorization to Represent form. (Exhibit #3)
- (4) The department caseworker did not receive the Authorization of Represent or a signed application by April 3, 2011.

- (5) On April 7, 2011, the Authorization to represent was FAXED to the Department.
- (6) The application was not processed because it was incomplete.
- (7) On August 4, 2011, [REDACTED] filed a request for a hearing to contest the Department's failure to register/process the application.
- (8) On October 19, 2011, Administrative Law [REDACTED] completed a Decision and Order Affirming the department's decision.
- (9) On November 14, 2011, [REDACTED] filed a request for a rehearing/reconsideration.
- (10) On January 13, 2012, [REDACTED] ordered the reconsideration.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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). The Department of Human Services (DHS or department) 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).

A **reconsideration** is a paper review of the facts, law and any new evidence or legal arguments. It is granted when the original hearing record is adequate for purposes of judicial review and a rehearing is **not** necessary, but one of the parties believes the ALJ failed to accurately address all the relevant issues **raised in the hearing request**.

Rehearing/ Reconsideration Requests

All Programs

The department, client or authorized hearing representative may file a written request for rehearing/reconsideration. Request a rehearing/ reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing, and that could affect the outcome of the original hearing decision.
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion.
- Typographical, mathematical, or other obvious error in the hearing decision that affects the rights of the client.
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the client must specify all reasons for the request.

A written request made by the AHR or, if none, by the client, must be faxed to:

- (517) 335-6088- Attention: SOAHR Client Requested Rehearing/Reconsideration
- SOAHR (now MAHS) will not review any response filed to any rehearing/reconsideration requests.

A request must be received within 30 days of the date the hearing decision is mailed. The request must be received as follows:

- Department request -- received in SOAHR (MAHS).
- Client or authorized hearing representative request -- received anywhere in DHS.

Granting A Rehearing/ Reconsideration

All Programs

SOAHR (MAHS) will either grant or deny a rehearing/reconsideration request and will send written notice of the decision to all parties to the original hearing. SOAHR (MAHS) grants a rehearing/reconsideration request if:

- The information in the request justifies it; **and**
- **There is time to rehear/reconsider the case and implement the resulting decision within the standard of promptness; see STANDARDS OF PROMPTNESS in this item.**
- **If the** client or authorized hearing representative made the request and it is impossible to meet the standard of promptness, the client or authorized hearing representative may waive the timeliness requirement in writing to allow the rehearing/reconsideration.

All Programs

Pending a rehearing or reconsideration request, implement the original Decision and Order unless a circuit court or other court with jurisdiction issues an Order which requires a delay or stay.

If such an order is received by the client, SOAHR, the court or the Legal Affairs, or if there are questions about implementing the order; see Administrative Handbook manual Legal & FOIA Issues (AHN) item 1100, How to Obtain Legal Services. BEM, Item 600.

Pertinent Department policy dictates:

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).

An AR is **not** the same as an [Authorized Hearings Representative](#) (AHR); see the Bridges Policy Glossary (BPG) for hearings policy definition.

When no one in the group is able to make application for program benefits, any group member capable of understanding AR responsibilities may designate the AR.

The AR assumes all the responsibilities of a client; see [BAM 105](#).

The AR must give his name, address, and title or relationship to the client. To establish the client's eligibility, he must be familiar enough with the circumstances to complete the application, answer interview questions, and collect needed verifications. BAM 110, page 7.

Application may be made on behalf of a client by his spouse, parent, legal guardian, adult child, stepchild, specified relative or any other person provided the person is at least age 18 or married. If this person is not a spouse, parent, legal guardian, adult child, stepchild, or specified relative the person must have a signed authorization to act on behalf of the client, by the client, client's spouse, parent(s) or legal guardian.

The application form must be signed by the client or the individual acting as his authorized representative.

When an assistance application is received in the local office without the applicant's signature or without a signed document authorizing someone to act on the applicant's behalf you must do the following:

- Register the application as a request if it contains a signature.
- Send a DHS-330, Notice of Missing Information, to the individual explaining the need for a valid signature. The signature page of the application may be copied and sent to the agency or individual who filled out the application with the notice.

- Allow 10 days for a response. You cannot deny an application due to incompleteness until 10 calendar days from the date of your initial request in writing to the applicant to complete the application form or supply missing information, or the initial scheduled interview.
- Record the date the application or filing form with the minimum information is received. The application must be registered and disposed of on Bridges, using the receipt date as the application date. BAM 110, page 8.

An application received from an agency is acceptable if it is signed by an individual and is accompanied by written documentation from the client authorizing the agency to act as their authorized representative. If unrelated adults living in the same home apply for assistance, neither has the authority to act on the other's behalf without written permission from the applicant.

MA Only

An authorized representative must be:

- An adult child or stepchild.
- A specified relative, see [BEM 135](#).
- Designated in writing by the client.
- Court appointed.
- A representative of an institution (such as jail or prison) where the client is in custody. BAM 110, pages 7-8.

Before the application or DHS 1171 Filing Form is registered, it must be signed by the client or authorized representative (AR). BAM 115, page 2.

You **cannot** deny an incomplete application until 10 calendar days from the **later** of either:

- Your initial request in writing to the applicant to complete the application form or supply missing information.
- The initial scheduled interview. BAM 115, page 4.

In the instant case, that L&S representative did not present sufficient evidence that they provided a signed Authorization to Represent to the Department on or before April 3, 2011. L&S Associates provided evidence in the form of a FAX cover sheet which indicates that on March 31, 2011, they FAXED three pages of documents to the Department. However, the FAX cover sheet does not establish exactly what documents

were FAXED to the department caseworker. No one from L and Associates was available to testify as to exactly what documents they FAXED to the department on March 31, 2011. [REDACTED] representative alleged that the FAX sent to the department on March 31, 2011 contained the Authorization for Release of Information and the Authorization to Represent. In fact, the Authorization for Release of Information submitted at the time of the hearing request by [REDACTED] was not signed by claimant until April 5, 2011 and was not received by [REDACTED] until April 7, 2011, according to the date stamp on the document. (ALJ Exhibit A)

[REDACTED] then submitted, at the hearing, a second set of documents, which were alleged to have been signed by the client on February 25, 2011 and sent to L&S associates via FAX February 28, 2011. These documents are hearsay. These documents were not a part of the department case file or part of the original hearing request packet submitted on by [REDACTED]. The client was not present to affirm that he signed the documents on either date. Because [REDACTED] submitted conflicting evidence in this case, this Administrative Law Judge finds that the Department's evidence is more consistent, and thus, more credible. L&S Associates have not established that it had Authorization to represent the claimant on the date of the filing of the application for medical assistance. [REDACTED] have not established that it provided proof of Authorization to represent within ten days of the notice of incomplete application. The department's decision must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it failed to process claimant's application for Medical Assistance because L&S Associates did not provide an authorization to represent in a timely manner.

Accordingly, the department's decision is AFFIRMED.

/s/ _____
Landis Y. Lain
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 2/9/12

Date Mailed: 2/9/12

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.

LYL/ds

■ [REDACTED]