

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201248356
Issue No: 2000, 2006
Case No: [REDACTED]
Hearing Date: April 3, 2013
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon a request for a hearing submitted by [REDACTED] to the Department of Human Services (department) on April 16, 2012. After due notice, a telephone hearing was held on April 3, 2013. [REDACTED], a representative with [REDACTED], appeared by three-way conference call and provided testimony on Claimant's behalf. The department was represented by [REDACTED], an eligibility specialist with the department's Genesee County office.

ISSUE

Whether the department properly denied Claimant's application for Medicaid and Retroactive Medicaid due to a failure to timely complete the application process?

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 June 30, 2011, [REDACTED] submitted an application for retroactive MA benefits on Claimant's behalf, seeking retroactive medical assistance coverage for Claimant back to March 2011. In support of the application, [REDACTED] submitted an Authorization to Release of Information form signed by Claimant on April 9, 2011, but failed to submit an Authorization to Represent form signed by Claimant. The application for MA benefits was signed by [REDACTED], not by Claimant.
2. On July 7, 2011, the department mailed [REDACTED] an Incomplete Application Notice (DHS-723), informing [REDACTED] that the department had received an application on behalf of Claimant but required the following information in order to complete the application

process: a statement signed by the client authorizing [REDACTED] to act as his authorized representative.

3. On July 15, 2011, [REDACTED] submitted correspondence to the department indicating that [REDACTED] was attempting to obtain a signed Authorization to Represent form from Claimant and required a 10-day extension of the July 17, 2011 deadline by which to complete the application process.
4. Despite having not been granted an extension by the department of the original July 17, 2011 deadline by which to complete the application process, L & S Associates submitted additional correspondence to the department on July 27, 2011 and August 5, 2011 requesting further extensions. In doing so, L & S Associates indicated that it was still attempting to obtain a signed Authorization to Represent form from Claimant.
5. None of the three requests submitted by [REDACTED] [REDACTED] to the department on July 15, 2011, July 27, 2011, and August 5, 2011 to extend the original July 17, 2011 deadline by which [REDACTED] was required to complete the application process was granted by the department.
6. Because [REDACTED] failed to complete the application process by submitting an Authorization to Represent form signed by Claimant within 10 days of the department's July 7, 2011 Incomplete Application Notice, or by July 17, 2011, the department was unable to determine Claimant's eligibility for MA and denied the application request effective August 1, 2011.
7. On August 16, 2011, [REDACTED] submitted correspondence to the department indicating that [REDACTED] was unable to obtain a signed Authorization to Represent from Claimant. As a result, [REDACTED] requested that the department use the enclosed Authorization for Release of Information in place of the Authorization to Represent.
8. On April 16, 2012, L & S Associates submitted a hearing request protesting the denial of Claimant's June 30, 2011 application for retroactive MA. The hearing request submitted by L & S Associates did not include Claimant's written appointment of [REDACTED] as Claimant's authorized representative.

CONCLUSIONS OF LAW

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. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

A request for hearing shall be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code R 400.904(1). The following people have authority to exercise this right by signing a hearing request: (i) an adult member of the eligible group; or (ii) the client's authorized hearing representative. BAM 600, p 1.

The appointment of an authorized hearing representative must be made in writing. BAM 600, p. 2. An authorized hearing representative must be authorized or have made application through probate court before signing a hearing request for the client. BAM 600, p. 2. The authorized hearing representative's prior authorization must be verified unless the authorized hearing representative is the client's attorney at law, parent or, for MA only, spouse. BAM 600, p. 2. The Michigan Administrative Hearing System will deny a hearing request when the required verification is not submitted. BAM 600, p. 2. The following documents are acceptable verification sources: (i) probate court order or court-issued letters of authority naming the person as guardian or conservator; (ii) probate court documentation verifying the person has applied for guardian or conservatorship; (iii) authorization signed by the client authorizing this person to represent the client in the hearing process; or (iv) birth or marriage certificate naming the person as parent or spouse. BAM 600, p. 2.

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the BAM, the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states that clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Clients must take actions within their ability to obtain verifications and the department must assist clients when necessary. BAM 105.

The application form for MA benefits must be signed by the client or the individual acting as his authorized representative. BAM 110, p. 8. 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, the department must do the following: (i) register the application as a request if it contains a signature; (ii) send a DHS-330, Notice of Missing Information, to the individual explaining the need for a valid signature; (iii) allow 10 days for a response (the department cannot deny an application due to incompleteness until 10 calendar days from the date of the initial request in writing to the applicant to complete the application form or supply missing information, or the initial scheduled interview); (iv) record the date the application or filing form with the minimum information is received. BAM 110, pp. 8-9. 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. BAM 110, p. 9.

In this case, on June 30, 2011, [REDACTED] submitted an application for retroactive MA benefits on Claimant's behalf, seeking retroactive medical assistance coverage for Claimant back to March 2011. In support of the application, which was signed by [REDACTED] and not by Claimant, [REDACTED] submitted a signed Authorization to Release of Information form, but failed to submit a signed Authorization to Represent form. On July 7, 2011, the department mailed [REDACTED] an Incomplete Application Notice (DHS-723), informing [REDACTED] that the department had received an application on behalf of Claimant but required the following information in order to complete the application process: a statement signed by the client authorizing [REDACTED] to act as his authorized representative. While the department's Incomplete Application Notice did not include a deadline by which [REDACTED] must submit the requested information in order to complete the application process, a subsequent extension request from L & S Associates dated and faxed to the department on July 15, 2011 confirmed that [REDACTED] understood that the deadline for the information necessary to complete the application process was 10 calendar days from the date of the Incomplete Application Notice, or by July 17, 2011.

Despite having not been granted an extension by the department of the original July 17, 2011 deadline by which to complete the application process, [REDACTED] submitted additional correspondence to the department on July 27, 2011 and August 5, 2011 requesting further extensions. In doing so, [REDACTED] indicated that it was still attempting to obtain a signed Authorization to Represent form from Claimant. None of the three requests submitted by [REDACTED] to the department on July 15, 2011, July 27, 2011, and August 5, 2011 to extend the original July 17, 2011 deadline by which [REDACTED] was required to complete the application process was granted by the department. And, because [REDACTED] failed to complete Claimant's application within 10 days of the department's July 7, 2011 Incomplete Application Notice, or by July 17, 2011, as required by BAM 110, the department was unable to determine Claimant's eligibility for MA and denied the incomplete application effective August 1, 2011. L & S Associates never submitted the

outstanding information necessary to complete the application (Claimant's signed Authorization to Represent form) but instead requested in correspondence dated August 16, 2011 that the department use the previously submitted Authorization for Release of Information in place of the Authorization to Represent.

On April 16, 2012, [REDACTED] submitted a hearing request protesting the denial of Claimant's June 30, 2011 application for retroactive MA. The hearing request submitted by [REDACTED] did not include Claimant's written appointment of [REDACTED] as Claimant's authorized hearing representative. Despite the hearing request lacking the required verification that Claimant has indeed appointed L & S Associates to serve as his authorized hearing representative, the Michigan Administrative Hearing System scheduled a hearing in the matter.

At the April 4, 2013 hearing in this matter, Chris Early, a representative with L & S Associates, testified that the department improperly denied Claimant's June 30, 2011 application for retroactive MA because the department had in its possession with the application Claimant's signed Authorization for Release of Information, which the department could and should have deemed an adequate substitute for the Authorization to Represent.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has reviewed Claimant's signed Authorization for Release of Information, which includes the following language, in relevant part:

Except as limited below, the above-named individual, organization, governmental agency, hospital, or physician is hereby authorized to release all information concerning me, described below to L&S Associates:

* * *

6. [REDACTED] shall use the medical information released, exclusively, for the purpose of assisting me in obtaining coverage for health care expenses and/or obtaining Social Security benefits. [REDACTED] is authorized to release the information described in paragraphs 1 through 5 above that it receives pursuant to this release to: hospitals where I have been treated, governmental agencies involved in eligibility determinations, the Social Security Administration and attorneys, physicians, and specialists retained by [REDACTED] to assist me, as well as to attorneys to whom [REDACTED] may refer my name for purposes of evaluating my eligibility for Social Security benefits. I acknowledge that the information subject to this authorization may be re-

disclosed by the recipient and is, therefore, no longer protected by privacy regulations, including HIPAA. I may revoke this release at any time by notifying the [REDACTED], [REDACTED]. Compliance Officer in writing of my desire to revoke it, except to the extent that the person or entity identified above, or [REDACTED], has already taken action in reliance on it. Otherwise, it shall expire thirty-six (36) months from the date of my signature. This release covers all information existing at the time of signature, but also any information described above generated during the period in which it is in effect. I understand that the covered entities to whom this authorization is furnished may not condition its treatment of me on whether or not I sign the authorization. My signature indicates that I know what type of information may be disclosed including potentially sensitive information which is listed above.

7. Under this release, I acknowledge that upon action by [REDACTED] to seek assistance on my behalf, [REDACTED] is acting on my behalf and is authorized to do so up to and including an appeal of my request for benefits. I hereby appoint [REDACTED] to serve as my authorized representative to obtain the information described in paragraphs 1 through 5 above and use that information for the limited purpose described in paragraph 6. (Emphasis added)

Based on the aforementioned highlighted language of the Authorization for Release of Information, this Administrative Law Judge finds [REDACTED] argument to be unconvincing and unreasonable. Indeed, [REDACTED] clearly recognized the distinct difference between and legal effect of its Authorization for Release of Information form and its Authorization to Represent form when [REDACTED] [REDACTED] submitted multiple extension requests to the department, seeking additional time to obtain Claimant's signed Authorization to Represent in order to complete the application process. [REDACTED]' own recognition of this distinction is further underscored by the representations made on their website, which includes a link to "Patient Resources", which in turn provides downloadable forms that a client is "required to complete when seeking assistance with medical bill payments and insurance enrollment."¹ The downloadable Authorization to Represent Form is described by [REDACTED] as follows:

This form provides authorization for [REDACTED] to represent you in all proceedings necessary to establish eligibility for Medicaid, including serving as the Authorized Hearing Representative for your case. (Emphasis added)²

In contrast, the downloadable Authorization for Release of Information is described by [REDACTED] as follows:

¹ <http://www.lsaservices.com/resources.shtml>.

² *Id.*

Special federal regulations protect the release of information in the areas of mental health, drug treatment, and alcohol treatment. Records of this nature require a patient's consent for their release.³

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds, based on the competent, material, and substantial evidence presented during the hearing, that because [REDACTED] did not have Claimant's written authorization to serve as his authorized hearing representative and to request a hearing on Claimant's behalf, the hearing request must be dismissed for lack of jurisdiction pursuant to Mich Admin Code R 400.904(1). Alternatively, even if it can be said that [REDACTED] Associates was authorized to serve as Claimant's authorized hearing representative such that this Administrative Law Judge had jurisdiction to conduct this hearing, this Administrative Law Judge finds that the department acted properly in denying Claimant's application request for retroactive MA coverage effective August 1, 2012 because L & S Associates lacked Claimant's written authorization to represent Claimant and to submit the application on Claimant's behalf.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that because [REDACTED] did not have Claimant's written authorization to serve as his authorized hearing representative and to request a hearing on Claimant's behalf, the hearing request is **DISMISSED** for lack of jurisdiction pursuant to Mich Admin Code R 400.904(1). The Administrative Law Judge further decides that, even if [REDACTED] was authorized to serve as Claimant's authorized hearing representative and to submit a hearing request on his behalf, the department acted properly in denying Claimant's application request for retroactive MA coverage effective August 1, 2012 because [REDACTED] lacked Claimant's written authorization to represent Claimant and to submit the application on Claimant's behalf and the department's decision is therefore **UPHELD**.

It is **SO ORDERED**.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 10, 2013

Date Mailed: April 11, 2013

³ *Id.*

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.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc:

