

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-55541
Issue No.: 2012
Case No.: [REDACTED]
Hearing Date: May 8, 2013
County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, a telephone hearing was held on May 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

During the hearing, it was discovered the Michigan Administrative Hearing System had incorrectly scheduled the above matter as a disability determination. Claimant's hearing request clearly reflects a request to prompt the issuance of a proper notice of case action. Therefore, the only matter addressed by this Hearing Decision is whether the Department issued a proper notice of case action to Claimant's representative.

ISSUE

Did the Department properly process Claimant's application for Medical Assistance (MA)?

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 January 29, 2009, an application for MA was submitted on behalf of Claimant for an [REDACTED] hospitalization.
2. On August 12, 2011, the Department issued a case action notice to Claimant. The notice of case action was not sent to Claimant's representative.

3. On May 10, 2012, Claimant's representative filed a hearing request to prompt the Department to finish processing the January 29, 2009, application for MA.
4. On May 22, 2012, the Department sent a copy of the case action notice for the application dated January 29, 2009, to Claimant's representative via fax.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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.

In the instant case, an application for MA benefits was submitted to the Department on January 29, 2009, with a request for retro MA back to October 2008. Claimant's representative asserts they were never provided a notice of case action for the application in question. The Department presented a copy of the notice of case action issued on August 12, 2011. This notice fails to show Claimant's representative as copied on the notice. There is no evidence to support the Department sent this notice on August 12, 2011, to Claimant's representative.

Claimant's representative requested a hearing on May 10, 2012, to prompt processing of the application. The hearing request indicated the following:

"I am requesting a hearing on behalf of [REDACTED] to prompt the Oakland County Department of Human Services to finish processing the Medicaid application that [REDACTED] submitted on January 28, 2009 with retroactivity to October 2008. On July 29, 2011, in response to a previous Hearing Request, the Department Hearing Summary indicated that the application was submitted to MRT for disability determination. We believe that an eligibility decision was made, however we have heard nothing regarding the status of the application. I request that the Department issue an Eligibility Notice. I will consider withdrawal of this hearing request upon a receipt of a currently dated Eligibility Notice addressing the disposition of the January 28, 2009 application for Medicaid and Retroactive Medicaid."

On May 22, 2012, the Department sent a fax including a copy of the notice of case action to Claimant's representative. Exhibit 2, pp. 7-13. The copy sent to Claimant's

representative was a copy of the original notice sent on August 12, 2011. It was not a current notice; however, it was, according to the evidence presented, the first time the actual notice was sent to Claimant's representative regarding the disposition of the January 28, 2009, application. The first page of the actual notice indicates May 22, 2012. Exhibit 2, p. 7.

Claimant's representative at hearing asserts the Department's failure to provide a "currently dated" notice of case action impacts Claimant in a negative manner. Claimant's representative acknowledged the Department did send over the case action as the Department testified; however, it failed to address the issue presented in the original hearing request. Claimant's representative asserts the only acceptable outcome to resolve the Department's action is the creation of a "currently dated" notice - not the delivery of a copy of the notice issued on August 12, 2011.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, Rule 400.901 through Rule 400.951. Rule 400.903 provides, in relevant part:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1).

BAM 220 (January 2011), p. 2, requires the Department to provide adequate notice regarding applications. Policy describes adequate notice as a written notice sent to the client at the same time an action takes effect. The Department acknowledged at hearing that Claimant's representative had not been given a case action notice as required by policy prior to Claimant's hearing request on May 10, 2012. However, the Department did send Claimant's representative the case action notice on May 22, 2012.

The issue presented is whether Claimant and/or his representative are entitled to a currently dated notice of case action. Claimant's representative asserts the lack of a currently dated notice impacts Claimant's ability to apply for programs outside the Department. Notice of case action, when properly given, allows claimants an opportunity to request a hearing to dispute actions taken by the Department resulting in the denial, suspension, reduction, discontinuance, or termination of assistance.

As indicated above this Administrative Law Judge has jurisdiction over cases involving claims for assistance being denied or not acted upon with reasonable promptness and/or Department actions resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1). The parties agree the Department failed to send the original notice of case action to Claimant's representative. The Department did, however, issue a copy of the notice on May 22, 2012, to Claimant's representative.

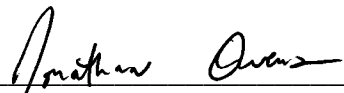
This Administrative Law Judge finds authority did exist at the time of the original hearing request to determine whether the Department properly processed Claimant's application, which includes the right to be given adequate notice regarding application disposition. However, subsequent to the hearing request, the Department did issue a notice of case action to Claimant's representative, thereby completing the processing of the application. The request for a currently dated case action is not a request that falls within an action based on a denial, suspension, reduction, discontinuance, or termination of assistance. Therefore, this Administrative Law Judge has no authority to render an order to compel such an action.

Claimant's representative has demonstrated sufficiently that the Department did error in not providing notice of case action to Claimant's representative prior to May 22, 2012. However, the Department has demonstrated it remedied the error in the only way possible when it sent the notice of case action to Claimant's representative on May 22, 2012, thereby properly notifying Claimant's representative of the Department's decision and allowing Claimant and/or his representative the opportunity to appeal this determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department complied with policy when the Department sent a notice of case action May 22, 2012.

Therefore the Department's decision is hereby AFFIRMED.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 15, 2013

Date Mailed: May 15, 2013

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 affect the substantial rights of the claimant:
 - 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

JWO/pf

cc:

