

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201317431
Issue No.: 2012
Case No.: [REDACTED]
Hearing Date: May 2, 2013
County: Wayne DHS (35)

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, a telephone hearing was held on May 2, 2013 from Detroit, Michigan. Participants included [REDACTED] as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Medical Assistance (MA) benefit eligibility beginning 7/2012.

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 7/5/11, Claimant applied for MA benefits.
2. On an unspecified date. DHS processed Claimant's MA benefit eligibility for 7/2011 and ongoing months.
3. On 12/6/12, Claimant requested a hearing to dispute the failure by DHS to evaluate Claimant's MA benefit eligibility from 7/2010-5/2011.

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).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that the hearing request noted that Claimant required special arrangements to participate in the administrative hearing. Claimant's AHR testified that no special arrangements were needed.

Claimant's AHR requested a hearing to dispute an alleged failure by DHS to process an application from 7/2010. DHS has certain timeframes in which applications should be processed; the timeframes are referred to as standards of promptness. The standard of promptness for processing MA applications is 45 days. BAM 115 (5/2012), p. 12. It was not disputed that Claimant submitted an application to DHS in 7/2011. DHS stated that a 7/2010 application was never submitted.

Generally, when there is dispute concerning a document submission and/or mailing, the burden of establishing a submission rests with the document sender. The reason for such a rule is that the submitting party has control over how the document is submitted and has the ability to prepare proof of the submission, if proof is eventually needed. A receiving party cannot realistically prove that another party did not send a document. In the present case, the burden of proving an application submission rests with Claimant.

Claimant's AHR contended it could be determined that an Assistance Application was probably submitted in 7/2010 because Claimant was in a nursing home in 7/2010 and that nursing homes would likely apply for MA benefits on behalf of their residents. Claimant's AHR's contention has a degree of logic but is empty of proof. If an application was submitted on behalf of Claimant, it would be expected that first-hand evidence of the submission be presented.

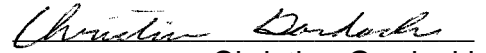
Claimant's AHR also pointed to the DHS Hearing Summary as proof of an application submission from 7/2010. In the summary, DHS conceded that an attempt was made to process Claimant's request for MA from 7/2010. Claimant's AHR contended that if DHS attempted to process Claimant's 7/2010 eligibility, DHS must have received an application from Claimant in 7/2010. DHS responded that the processing attempt was not a concession that Claimant submitted an application in 7/2012. DHS clarified that the processing attempt was made based on the mistaken belief that DHS policy authorized retroactive MA benefits for 12 months for clients in nursing homes. DHS ceased processing Claimant's application after realizing that no such policy existed. The DHS explanation was reasonable and credible. It is found that DHS only attempted to process Claimant's MA benefit eligibility based on an erroneous application of policy rather than a belief that Claimant submitted an application from 7/2010.

During the hearing, DHS obtained a Case/Application Assignment Summary (Exhibit 2). The summary noted that the oldest registration action taken on an application for Claimant was 8/2/11. DHS noted that the 8/2/11 date likely corresponded with Claimant's application (Exhibits 3-9) dated 7/5/11. The DHS evidence was not definitive proof that no application was submitted by Claimant prior to 7/2011, but it was the best proof presented.

Based on the presented evidence, there is insufficient proof of an MA benefit application submitted on behalf of Claimant from 7/2010. Accordingly, it is found that DHS properly did not process Claimant's MA benefit eligibility from 7/2010-5/2011.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly did not process Claimant's MA benefit eligibility from 7/2010-5/2011 based on Claimant's failure to timely apply for MA benefits. The actions taken by DHS are AFFIRMED.


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

Date Signed: 5/16/2013

Date Mailed: 5/16/2013

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 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:

