

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201333422
Issue No.: 2012
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Oakland DHS (03)

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 June 6, 2013 from Detroit, Michigan. Participants included [REDACTED] as Claimant's authorized hearing representative (AHR). DHS did not participate in the hearing.

ISSUE

The issue is whether DHS properly failed to determine Claimant's eligibility for Medical Assistance (MA) benefits for the Claimant's month of death.

FINDINGS OF FACT

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

1. Claimant died on 7/30/11.
2. On 7/30/11, an application for MA benefits on behalf of Claimant was submitted to DHS.
3. DHS failed to process the MA application.
4. On 2/20/13, Claimant's AHR requested a hearing (Exhibit A1) to compel DHS to process Claimant's eligibility for MA for 7/2012.

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 the hearing request, it should be noted that the request noted that the AHR required special arrangements to participate in the administrative hearing; specifically, a three-way telephone hearing was requested. Claimant's AHR was granted permission to appear by telephone. Claimant's AHR stated that the special arrangement request was met.

Another procedural issue involved whether the AHR had standing to represent Claimant for the hearing. The AHR presented a Letter of Authority (Exhibit A2) from Oakland County Probate Court appointing a third party as Claimant's representative. Other documents verified that the third party signed an Authorization to Represent (Exhibit A4) giving the AHR's agency the right to represent the third party in administrative hearings related to MA benefit eligibility. The documentation was deemed sufficient to grant standing to the AHR to appear on behalf of Claimant for the administrative hearing.

Yet another procedural issue must be considered. The Request for Hearing specifically sought to compel DHS to process Claimant's MA eligibility from 7/2012. The AHR testified that only MA eligibility from Claimant's month of death, 7/2011, was sought. Thus, it must be determined whether Claimant's AHR provided adequate notice of the issue in dispute.

The Request for Hearing also noted that Claimant "should have MA eligibility for July 2012, the month of her death". Claimant's AHR testified that a death certificate was sent to DHS and that DHS should have been fully aware of when Claimant died. The fact that the AHR cited that MA eligibility for Claimant's month of death was in dispute is supportive in finding that DHS should have realized that 7/2011 was the benefit month in dispute despite what was stated in the request for hearing.

Claimant's AHR also submitted other correspondence (Exhibits A10 and A12) which correctly noted the proper benefit month in dispute. This is also supportive in finding that DHS was well aware that Claimant's AHR was only disputing Claimant's MA eligibility for 7/2011.

Further, DHS did not appear for the hearing or cite any confusion created by the Request for Hearing in the Hearing Summary. This further supports that DHS was not harmed by the error in the hearing request.

Claimant's AHR's Request for Hearing could have theoretically inhibited DHS from properly defending their actions. Based on the presented evidence, it is doubtful that

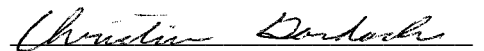
DHS was so inhibited. It is found that the incorrect date of Claimant's death cited in the Request for Hearing was harmless error. At last, a substantive analysis may be undertaken.

Claimant's AHR testified that an MA application was submitted to DHS on [REDACTED], the date of Claimant's death. DHS has 90 days to process applications for MA categories in which disability is an eligibility factor. BAM 115 (1/2011), p. 11. Claimant's AHR further alleged that DHS failed to process MA eligibility. The AHR testimony was credible and not rebutted. It is found that DHS failed to timely process Claimant's MA benefit application.

It was also established that DHS received proof of Claimant's death (Exhibit A6). Death establishes a person's disability for the month of his/her death. BEM 260 (1/2010), p. 1. Thus, DHS is properly mandated to process Claimant's MA eligibility for 7/2011 subject to the finding that Claimant was a disabled person in 7/2011.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to timely process Claimant's MA benefit eligibility for 7/2011. It is ordered that DHS process Claimant's application, dated 7/2011 requesting MA benefits, subject to the finding that Claimant was a disabled individual in 7/2011. The actions taken by DHS are REVERSED.


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

Date Signed: 6/24/2013

Date Mailed: 6/24/2013

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:

