

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-35512
Issue No.: 2018
Case No.: [REDACTED]
Hearing Date: June 17, 2013
County: Wayne (82-17)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]

[REDACTED] The Department of Human Services (Department) did not participate in the hearing.

ISSUE

Did the Department properly process Claimant's August 29, 2012, application for Medical Assistance (MA), with retroactive coverage to May 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 August 29, 2012, Claimant's AHR, acting as Claimant's authorized representative (AR), filed an application seeking MA coverage for Claimant retroactive to January 2012.
2. On January 16, 2013, the AHR filed a request for hearing contending that the Department had failed to process Claimant's application.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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.

As a preliminary matter, it is noted that the Department did not participate in this hearing. The hearing was scheduled as a 10:30 a.m. three-way telephone hearing. The AHR called in to the Michigan Administrative Hearing System (MAHS) at 10:40 a.m. to advise MAHS it was prepared to proceed with the hearing. MAHS called the Department's local office to notify it that the AHR and Administrative Law Judge were ready to proceed with Claimant's hearing and that if the Department did not call back by 11:00 a.m. prepared to proceed, the hearing would proceed in its absence. An email was also sent to the Department at 10:44 a.m. reiterating the phone message. The Department did not call in. The hearing commenced at 11:00 a.m. with Claimant's AHR as the sole party-participant.

Claimant's AHR testified that, as Claimant's authorized representative, it submitted an MA application to the Department on August 29, 2012, with a request for retroactive coverage to May 2012. Claimant's AHR requested a hearing, alleging that the Department had failed to process this application.

The Department's hearing summary, which was prepared on March 14, 2013, indicated that Claimant's application was denied on November 20, 2012, because the Medical Review Team (MRT) had determined that Claimant was not disabled. However, no copy of the Notice of Case Action was included in the hearing packet showing the reason for the denial. Furthermore, while the hearing summary indicated that a Notice of Case Action denying the application was sent to Claimant, there was no evidence that a copy of the Notice was sent to the AHR, notifying it, as Claimant's AR, that the application was denied. The AHR testified that it, as Claimant's AR, did not receive the Notice. Thus, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's application and notified the parties, including the AHR, of the application denial. See BAM 110 (May 2012), p. 7; BAM 220 (July 2012), p. 2. Because the AHR did not receive a copy of the Notice of Case Action, it was denied the opportunity to file a timely hearing request. See BAM 600 (February 2013), p. 4.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy in processing Claimant's MA application.

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's August 29, 2012, MA application, with retroactive coverage to May 2012;
2. Begin processing the application;
3. Provide Claimant with the MA coverage he is eligible to receive from May 2012 ongoing;
4. Notify Claimant and the AHR in writing of its decision; and
5. Comply with each of the preceding steps in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 18, 2013

Date Mailed: June 18, 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,
 - 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

ACE/pf

cc:

