

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-28376
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: June 3, 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 3, 2013, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]

[REDACTED] Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly deny Claimant's March 27, 2012, application for Medical Assistance (MA) with retroactive coverage?

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 30, 2012, Claimant's AHR filed a filing form indicating an intent to file an MA application for Claimant and included a January 30, 2012, Facility Admission Notice for services rendered on October 7, 2011, with the filing form.
2. On March 27, 2012, Claimant's AHR, acting as Claimant's authorized representative (AR), filed an MA application, with retroactive coverage, and included the January 30, 2012, Facility Admission Notice.
3. On March 30, 2012, the Department sent Claimant and the AHR a Verification Checklist (VCL) requesting medical documentation by April 9, 2012.

4. On April 9, 2012, the AHR sent the Department a fax forwarding one of the requested documents and asking for an extension of the due date for the remaining VCL documents to April 19, 2012.
5. On April 18, 2012, the AHR received from the Department the January 30, 2012, Facility Admission Notice it had submitted with the filing form and with the application marked as eligibility "denied."
6. On May 3, 2012, the Department sent Claimant and the AHR a Notice of Case Action denying the MA application on the basis that requested verifications had not been provided.
7. On July 17, 2012, the AHR completed a request for hearing disputing the Department's actions, which was filed with the Department.

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 a hearing request must be filed anywhere in the Department within 90 calendar days of the date of written notice of case action. BAM 600 (July 2012), p. 4. Because Claimant's AHR's hearing request, which is dated July 17, 2012, was not marked by the Department with a stamped date of receipt, it is assumed that it was received by the Department within 90 days of the May 3, 2012, Notice of Case Action and is, therefore, deemed timely received.

At the hearing, the Department testified that it sent Claimant a May 3, 2012, Notice of Case Action denying the March 27, 2013, MA application because Claimant had failed to verify requested information. The AHR admitted that it had failed to provide the remaining documents on a March 30, 2012, VCL because on April 18, 2012, prior to the extended due date for those documents, it received from the Department the Facility Admission Notice dated January 30, 2012, marked as eligibility "denied." The AHR contended that, based on the denial of the Facility Admission Notice, it concluded that the Department had denied Claimant's MA application and, accordingly, did not attempt to provide the remaining requested verifications. The Department must ensure that client responsibilities are explained in understandable terms. BAM 105 (May 2012), p. 8. In essence, the AHR contends in this case that, by denying the Facility Admission

Notice, the Department led the AHR to conclude that Claimant's MA application was denied and further verifications were unnecessary.

The AHR's argument is contingent upon the Department having erred in denying the Facility Admission Notice. Although the Department worker at the hearing was not aware that the Facility Admission Notice had been denied, he conjectured that the Notice was denied because it concerned medical expenses incurred in October 2011 and Claimant's March 27, 2012, MA application with retroactive coverage would only make him eligible for MA coverage from December 1, 2011, ongoing.

In response, the AHR argued that, although it had filed Claimant's application on March 27, 2012, it had filed a filing form on January 30, 2012, and that this filing form preserved a January 30, 2012, application date (and the right to apply for retroactive coverage to October 2011) for the subsequent application filed on March 27, 2012. A filing form (DHS-1171) serves to protect a client's application date. BAM 110 (December 2011), pp. 1-2, 4, 6, 9, 16. Although the Department denied receiving a filing form from Claimant or the AHR, the AHR presented a fax confirmation showing that, on January 30, 2012, it faxed a 4-page document to the Department at the same fax number it had sent other documentation that the Department acknowledged receiving referencing Claimant's name and indicating that "app filed." The AHR testified that the fax consisted of (i) the fax cover sheet, (ii) a January 30, 2012, letter addressed to the Department referencing that the filing form was enclosed, (iii) the January 30, 2012, Facility Admission Notice, and (iv) the filing form dated January 30, 2012. Copies of the documents were presented and admitted into evidence.

It is noted that the filing form presented by the AHR was signed by a representative of the AHR and dated January 30, 2012, but the evidence at the hearing showed that Claimant did not sign an authorization allowing the AHR to represent her until March 30, 2012. Before a filing form is registered, it must be signed by the client or authorized representative (AR). BAM 105 (November 2012), p 1; BAM 115 (December 2011), p. 2. An AR is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf. BAM 110, p. 7. If a person who is not the client's spouse, parent, legal guardian, adult child, stepchild, or specified relative, applies on behalf of the client, the person must have a *signed authorization* to act on behalf of the client, client's spouse, parent(s) or legal guardian. BAM 110, p. 8. However, in MA cases, 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 register the application as a request if it contains a signature and request a valid signature, allowing ten days for a response. BAM 110, pp. 8-9. Furthermore, a completed Facility Admission Notice (MSA-2565-C) is a request for MA and must be registered. BAM 110, p. 16. Under the facts in this case, the AHR established that it filed a filing form on Claimant's behalf on January 30, 2012, which included the Facility Admission Notice dated January 30, 2012, for services rendered October 7, 2011, and the Department did not act in accordance with Department policy when it failed to register the filing form and Facility Admission Notice and give the AHR

the opportunity to remedy any issues concerning the AR's authority to act on Claimant's behalf.

Because the January 30, 2012, filing form preserved that date for the March 27, 2012, MA application and also allowed for retroactive coverage to October 2011, the Department did not act in accordance with Department policy when it denied Claimant's January 30, 2012, Facility Admission Notice, prior to processing Claimant's MA application. Since the denial of the Facility Admission Notice confused the AHR and led it to believe that the Department was denying Claimant's application before the verifications were due, under the circumstances in this case, the Department did not act in accordance with Department policy when it denied Claimant's MA application for failure to provide requested verifications.

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 did not act in accordance with Department policy when it denied Claimant's March 27, 2012, 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 March 27, 2012, MA application, applying a January 30, 2012, application date, with retroactive coverage to October 2011;
2. Process the application in accordance with Department policy;
3. Provide Claimant with MA coverage she is eligible to receive, if any, from October 2011, ongoing; and
4. Notify Claimant of its decision in writing in accordance with Department policy.



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

Date Signed: June 20, 2013

Date Mailed: June 20, 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

ACE/pf

cc:

