

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

IN THE MATTER OF:



Reg. No.: 2013-31042
Issue No.: 2018
Case No.: [REDACTED]
Hearing Date: July 10, 2013
County: Wayne (82-82)

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 July 10, 2013, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

1. Did the Department properly deny Claimant's December 28, 2012, Medical Assistance (MA) application for coverage for October 1, 2012, ongoing?
2. Did the Department properly process Claimant's June 7, 2012, and July 2012, MA applications?

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 June 7, 2012, and in July 2012, Claimant's AHR, acting as Claimant's authorized representative, filed an application seeking MA coverage for Claimant.
2. The AHR never received any Verification Checklists (VCLs) or Notices of Case Action concerning the June 2012 and July 2012 applications.

3. On December 28, 2012, Claimant's AHR filed an MA application for Claimant seeking retroactive coverage to September 2012.
4. On January 30, 2012, the Department sent Claimant a Notice of Case Action approving her for MA coverage for September 2012, subject to a \$3,994 patient pay, and denying her MA coverage for October 1, 2012, ongoing due to excess assets.
5. On February 13, 2012, the AHR filed a request for hearing disputing the Department's actions.

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 written authority of an individual to act as a client's authorized hearing representative must be verified. BAM 600 (July 2013), p. 2. In this case, the AHR, indicating that she had power of attorney, requested a hearing for Claimant, her mother, concerning Claimant's MA applications. The AHR provided a power of attorney dated October 20, 2006, showing that she had written authority to act on Claimant's behalf and request the hearing.

Two issues were presented at the hearing: (1) the denial of Claimant's December 28, 2012, MA application for MA coverage for October 2012 ongoing and (2) the processing of Claimant's June 2012 and July 2012 MA applications.

December 2012 MA Application

On January 30, 2013, the Department sent Claimant a Notice of Case Action concerning her December 28, 2012, MA application with retroactive coverage to September 2012, notifying her that she was approved for MA coverage subject to a \$3,994 patient pay for September 2012 but denied for MA coverage for October 2012 ongoing because of excess assets.

Claimant is the sole member of her MA asset group. BEM 211 (November 2012), pp. 5-6. For an asset group of one, the asset limit for SSI-related MA [which is available to disabled, aged (age 65 or older), blind or Medicare-eligible individuals] is \$2,000. BEM 400 (November 2012), p. 5; BEM 105 (October 2010), p. 1. Asset eligibility exists when

the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 4.

In this case, the Department testified that Claimant's cash assets in her checking account exceeded the asset limit for October 2012 through December 2012, resulting in the denial of her December 28, 2012, application for MA coverage for October 2012 ongoing. The AHR did not dispute that the lowest balance in Claimant's checking account for each of the months at issue exceeded \$2,000. Thus, the Department acted in accordance with Department policy when it denied Claimant's MA application for October 2012 ongoing because of excess assets.

June 2012 and July 2012 MA Applications

Claimant's AHR testified that, as Claimant's authorized representative (AR), she submitted an MA application to the Department on June 7, 2012, and in July 2012. The Department testified that it was prepared to address only the denial of coverage resulting from the December 2012 application and did not have any information concerning the processing of the June and July 2012 applications. However, the AHR did reference the prior applications and her concerns regarding the Department's processing of those applications in the letter attached to her hearing request. Therefore, the Department was on notice of the AHR's concerns with respect to the Department's failure to process Claimant's earlier MA applications.

Claimant credibly testified that she did not receive any of the VCLs or Notices of Case Action that were sent out with respect to the June 2012 and July 2012 applications and that she subsequently learned that VCLs were sent to Claimant's residence at the long-term care facility even though the AHR had identified herself as the AR in the applications. The AR assumes all the responsibilities of a client. BAM 110 (November 2012), p. 7. Accordingly, the Department should send all VCLs to the AR. See BAM 110 (November 2012), p. 8. The Department suggested that the AHR may not have received the VCLs and other correspondence from the Department because she did not include a power of attorney indicating her authority to file an MA application for Claimant with the filed applications. However, if the Department receives an MA application signed by someone purporting to act on behalf of the client, the Department must send a DHS-330 Notice of Missing Information requesting written authorization. BAM 110 (November 2012), pp. 8-9. There was no evidence in the present case that the AHR did not submit a copy of documentation authorizing her to act on Claimant's behalf with the application or, if she did not, that the Department requested such information pursuant to a DHS-330.

Based on the facts presented at the hearing, the Department did not act in accordance with Department policy when it processed Claimant's June 2012 and July 2012 MA applications.

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 acted in accordance with Department policy when it denied Claimant's December 28, 2012, MA application for MA coverage for October 2012 ongoing but did not act in accordance with Department policy in processing Claimant's June 2012 and July 2012 MA applications.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the Department's denial of the December 28, 2012, application for MA coverage for October 2012 ongoing and REVERSED IN PART with respect to the Department's processing of the June 2012 and July 2012 MA applications.

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 June 7, 2012, and July 2012 MA applications;
2. Begin reprocessing the applications;
3. Provide Claimant with the MA coverage she is eligible to receive from the date of application 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: July 15, 2013

Date Mailed: July 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 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:

