

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 2013-38169
Issue No.: 2006; 4003
Case No.: ██████████
Hearing Date: August 7, 2013
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 August 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's daughter, ██████ █ ██████. Participants on behalf of the Department of Human Services (Department) included Nancy Opatich, Family Independence Specialist.

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) benefits application effective June 1, 2012, ongoing?

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 19, 2012, Claimant applied for MA benefits. Exhibit 2.
2. On March 5, 2013, the Department sent Claimant a Medical Determination Verification Checklist, which was due back by March 15, 2013. Exhibit 1.
3. On March 5, 2013, the Department also sent Claimant a Verification of Application or Appeal for SSI/RSDI. Exhibit 1.
4. The Department did not receive all of the requested medical verifications.
5. On March 21, 2013, the Department sent Claimant a Notice of Case Action that notified Claimant that her MA application was denied effective June 1, 2012, ongoing, due to her failure to comply with the verification requirements. Exhibit 2.
6. On March 29, 2013, Claimant filed a hearing request, protesting the Department's action. Exhibit 1.

CONCLUSIONS OF LAW

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

In this case, on June 19, 2012, Claimant applied for MA benefits. Exhibit 2. On March 5, 2013, the Department sent Claimant a Medical Determination Verification Checklist, which was due back by March 15, 2013. Exhibit 1. On March 5, 2013, the Department also sent Claimant a Verification of Application or Appeal for SSI/RSDI. Exhibit 1. The Department did not receive all of the requested medical verifications. On March 21, 2013, the Department sent Claimant a Notice of Case Action that notified Claimant that her MA application was denied effective June 1, 2012, ongoing, due to her failure to comply with the verification requirements. Exhibit 2.

Clients must cooperate with the local office in the completion of necessary forms for determining initial and ongoing eligibility. BAM 105 (March 2013), p. 5.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification it requests. BAM 130 (May 2012), p. 5. If the client cannot provide the verification despite a reasonable effort, the Department extends the time limit up to three times. BAM 130, p. 5. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 5. Also for MA cases, if the client indicates refusal to provide a verification or the time period given has elapsed, then policy directs that a negative action be issued. BAM 130, p. 6. Only adequate notice is required for an application denial. BAM 130, p. 6. Timely notice is required to reduce or terminate benefits. BAM 130, p. 6.

The client must obtain required verification, but the Department must assist if they need and request help. BAM 130, p. 3. If neither the client nor the Department can obtain verification despite a reasonable effort, use the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3.

At the hearing, Claimant testified that she contacted the Department on the March 15, 2013 verification due date because she testified that she just received it that day. Claimant testified that she left a voicemail seeking assistance regarding the requested documentation. Claimant testified that she again contacted the Department on March 18, 2013, seeking assistance again. Claimant's daughter testified that she did mail the completed verification documents to the Department on March 18, 2013. Claimant's daughter also testified that she mailed the DHS-49, Medical Examination Report, to Claimant's physician to complete. Claimant testified that is was unsure if the Medical Examination Report was completed by her physician.

The Department testified that it did receive some of the requested documents. For example, the Department received the Medical Social Questionnaire form, Activities of Daily Living form, etc... However, the Department testified that it never received the Medical Examination Report. The Department also testified that it did remember receiving phone calls from the Claimant on or around March 15, 2013.

Based on the foregoing information and evidence, the Department improperly denied Claimant's MA application. First, Claimant credibly testified that she contacted the Department requesting assistance regarding the verification documents. Moreover, the Department acknowledges that it does recall receiving phone message from the Claimant around that time. The Department should have assisted Claimant in regards to her verification documents. BAM 130, p. 3. Second, Claimant made a reasonable effort to provide the verifications the Department requested and her MA application should have not been denied. BAM 130, p. 5.

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 improperly denied Claimant's MA application effective June 1, 2012, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED **REVERSED** for the reasons stated on the record.

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

1. Initiate reregistration the June 19, 2012, MA application;
2. Begin reprocessing the application/recalculating the MA budget for June 1, 2012, ongoing, in accordance with Department policy;
3. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive, but did not, from June 1, 2012, ongoing; and
4. Begin notifying Claimant of its MA decision in writing in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 08/26/2013

Date Mailed: 08/27/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the Claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/pw

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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