

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-55613
Issue No.: 2018
Case No.: [REDACTED]
Hearing Date: August 21, 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 August 21, 2013, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED] Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly deny Claimant's February 28, 2013, application for Medical Assistance (MA) with request for retroactive coverage to November 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. Claimant initially applied for MA on December 3, 2012.
2. The Medical Review Team (MRT), relying on a Detroit Medical Center (DMC) discharge summary concerning Claimant's hospitalization between November 19, 2012, and November 23, 2012, concluded on December 19, 2012, that Claimant was not disabled.
3. On December 21, 2012, the Department sent Claimant a Notice of Case Action denying her December 3, 2012, MA application based on MRT's finding that Claimant was not disabled and Claimant's lack of eligibility on any other basis.

4. On February 28, 2013, Claimant's AHR filed an MA application on Claimant's behalf with a request for retroactive coverage to November 2012.
5. On April 12, 2013, the Department sent Claimant a Notice of Case Action notifying her that, because the medical documents that were submitted with respect to the February 28, 2013, MA application were the same as those submitted with Claimant's December 3, 2012, MA application, it was denying her MA application.
6. On June 27, 2013, the AHR filed a hearing request disputing the Department's April 12, 2013, Notice of Case Action.

CONCLUSIONS OF LAW

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

The sole issue presented at the hearing was whether the Department properly relied on the MRT decision issued in connection with the denial of Claimant's December 3, 2012, MA application to deny her February 28, 2013, MA application.

The Department explained that the medical packet submitted in connection with the February 28, 2013, MA application concerned Claimant's [REDACTED] hospitalization between [REDACTED], the same hospitalization considered by MRT in connection with the December 3, 2012, MA application. The only difference between the medical packet submitted in connection with the December 3, 2012, application and that submitted in connection with the February 28, 2013, application was that the medical packet for the February 28, 2013, application included an optional DHS-49G Activities of Daily Living completed by Claimant and a neurology consultation final report dated [REDACTED]. The Department argues that, because the consultation was issued in connection with Claimant's [REDACTED] hospitalization, it was incorporated into the discharge summary and was, therefore, not new medical evidence requiring MRT's consideration.

Department policy requires that, upon receipt of the medical packet containing all required medical documentation, the Department specialist is required to complete the top section of the DHS-49A and forward all medical evidence, the DHS-49A, DHS-49B, DHS-49BU, DHS-49F and optional DHS-49G to the Department medical contact person

who forwards medical packets to the MRT. BAM 815 (July 2013), p. 5. Department policy does not give the specialist or the medical contact worker the discretion to determine whether a medical packet containing documentation not in a medical packet previously forwarded to, and considered by, MRT is duplicative of the evidence already considered by MRT when it found a client not disabled. If a medical basis for disability does not exist, MRT must identify the basis for denial on the DHS-49A, sign and date the form, and return it and the medical packet to the Department medical contact worker. BAM 815, p. 6. In this case, the Department did not act in accordance with Department policy when it precluded MRT from making the disability determination.

Because the Department did not forward to MRT the medical packet submitted in connection with the February 28, 2013, MA application, which contained medical documents not previously considered by MRT, and MRT did not make a disability determination, the Department did not act in accordance with Department policy.

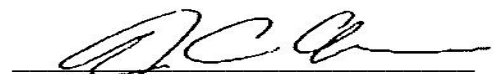
DECISION AND ORDER

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 February 28, 2013, MA application.

Accordingly, the Department's MA 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 February 28, 2013, MA application, with request for retroactive coverage to November 2012;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision, including forwarding Claimant's medical packet to MRT;
3. Provide Claimant with MA coverage she is eligible to receive, if any, from November 1, 2012, ongoing; and
4. Notify Claimant and the AHR in writing of its decision in accordance with Department policy.



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

Date Signed: August 27, 2013

Date Mailed: August 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

ACE/pf

cc:

