

**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.: 2014-9232
Issue No.: 2002
Case No.: ██████████
Hearing Date: December 16, 2013
County: Wayne (82-43)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on December 16, 2013, from Highland Park, Michigan. Participants on behalf of Claimant included Claimant ██████████

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Participants on behalf of the Department of Human Services (Department) included ██████████

ISSUE

Did the Department properly process Claimant's February 22, 2013, application for Medical Assistance (MA) benefits, with retroactive coverage to November 1, 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 February 22, 2013, Claimant's AHR, acting as Claimant's authorized representative (AR), filed an MA application for Claimant, with request for retroactive coverage to November 2012.
2. On March 13, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting proof of income.
3. On March 26, 2013, the Department sent Claimant a Notice of Case Action notifying her that her application was denied because she had failed to verify income.

4. On October 24, 2013, Claimant's AHR filed a hearing request contending that the Department had failed to process Claimant's February 22, 2013, MA application with retroactive coverage.

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), Department of Human Services Referece Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

As a preliminary matter, the Department argued that the AHR had not timely filed the October 24, 2013, request for hearing within 90 days of the applicable March 26, 2013, Notice of Case Action, and, consequently, the request for hearing should be dismissed. The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (July 2013), p. 5. However, in this case the AHR alleged that the Department had not timely processed Claimant's application and denied receiving the Notice of Case Action denying Claimant's MA application. As discussed below, the Department failed to satisfy its burden of showing that it sent a Notice of Case Action to the AHR. Under these facts, the Department cannot challenge the AHR's request for hearing as untimely.

At the hearing, the Department presented evidence showing that it had sent a March 13, 2013, VCL to Claimant requesting proof of income and a March 26, 2013, Notice of Case Action denying Claimant's MA case because she had failed to return verifications of earned income. However, there was no evidence that the VCL or Notice of Case Action was sent to the AHR in its capacity as Claimant's AR. The AHR presented a copy of Claimant's February 22, 2013, application showing that it was listed as Claimant's AR at the time Claimant's application was filed. The AR assumes all the responsibilities of a client. BAM 110 (July 2013), p. 9. Accordingly, the Department should send all correspondence concerning the client's case to the AR. Because the Department did not establish that it sent any VCL or Notice of Case Action concerning Claimant's February 22, 2013, MA application to the AHR, acting as AR, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's MA case.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's MA application.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister the February 22, 2013, MA application, with request for retroactive coverage to November 2012.
2. Reprocess the application;
3. Provide Claimant with MA coverage she is eligible to receive, if any, from November 1, 2013, ongoing; and
4. Notify Claimant and the AHR in writing of its decision.



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

Date Signed: December 17, 2013

Date Mailed: December 17, 2013

NOTICE OF APPEAL: 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.

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).

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]