

2. The Claimant's application dated April 26, 2012 was filed but never processed by the Department as it was lost or not received. Claimant Exhibit 4
3. The AHR sent numerous inquiries to the Department to process the application with no response from the Department. Claimant Exhibit 4
4. On January 23, 2013 at the Department's request, the AHR emailed a copy of the Application to the Department. Exhibit 5
5. The Claimant's AHR also sent a follow-up letter regarding the refiled application requested by the Department. Claimant Exhibit 6.
6. On April 26, 2012 the Claimant's AHR sent an application to the Department to the correct address and provided proof at the hearing of the mailing and delivery by FED EX. Claimant Exhibit 2.
7. The original application included a retro application and a MSA 2565, Admission Notice, a 49B Social Summary Report, and a 49F Medical Social Questionnaire and Medical Records and a release of information. The cover letter noted that the checklist was to be sent to L&S and the DHS was requested to wait to send the application to the MRT so that medical records could be obtained. Claimant Exhibit 3
8. The April 26, 2012 application was never processed.
9. On February 20, 2013, Claimant's AHR filed a hearing request, protesting the failure of the Department to process the April 26, 2012 application and retro application for January 2012.

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.

Additionally, in this case the evidence submitted at the hearing indicated that the original application with numerous documents which are required to be filed with the application was delivered to the Department but was never processed. All the other requisite forms were included with the application, except for medical records which the AHR noted were to follow. It appears based upon the evidence of delivery and subsequent emailing of the application several months later at the Department's request that the Department lost the application or never received the application, or it would

have been processed. This is based upon the evidence provided by the AHR at the hearing that a FED EX delivery was made to the Department offices on April 26, 2012. Even after the AHR again provided an additional copy of the April 26, 2012 application, the application was never processed. In fairness to the Department, the Department representative who requested that the application be resent to DHS by [REDACTED] was not at the hearing and out of the office. Nor did the Department have a copy of the MAHS hearing file which was provided to the Department after the hearing.

Therefore based on the evidence presented by the AHR through [REDACTED] it is determined that the application was properly sent and addressed and therefor is presumed to have been received not once, but twice. Based upon the foregoing, the Department should have processed the application to determine eligibility and the Department did not comply with the processing requirements found in BEM 260. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case the Department had no record of receipt in the bridges system and did not have the medical file at the hearing and thus could not say why or if the application was ever received, and the Department representative that requested the application be resent did not appear at the hearing. Clearly the application was sent to the correct address and emailed to the correct DHS representative who requested the application be emailed, therefore it is determined that the application was received and not processed, and the presumption of receipt referenced above was not rebutted by the Department.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

- properly denied Claimant's application improperly denied Claimant's application
- properly closed Claimant's case
- failed to process the Claimant's April 26, 2012 application for Medical Assistance.

for: AMP FIP FAP MA SDA CDC.

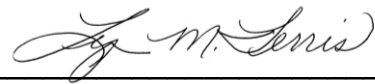
DECISION AND ORDER

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 act properly. did not act properly.

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. The Department shall reregister and process the April 26, 2012 application for medical assistance and retro medical assistance and associated medical forms and medical records provided with the original application and retro application to determine eligibility.
2. The Department shall request any further documents required to process the application based upon the fax of the documents contained in the MAHS hearing file which were faxed to the Department after the hearing.
3. The Department shall notify the Claimant and the Claimant's AHR of all notices and verification requests that are issued in order for the Department to process the application.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 6, 2013

Date Mailed: August 6, 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

2013-33390/LMF

LMF/cl

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