

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-33791
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: May 30, 2013
County: Wayne (82-35)

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 May 30, 2013, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]

[REDACTED] Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly process Claimant's May 18, 2012, Medical Assistance (MA) application?

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 May 18, 2012, Claimant applied for MA, with retroactive coverage.
2. Claimant's AHR served as his authorized representative (AR) during the application process.
3. On July 2, 2012, the Department sent Claimant a Verification Checklist (VCL) requesting that Claimant provide documentation concerning his medical expenses, checking account, 401(k) and wages by July 12, 2013.

4. Later, the Department sent a copy of the VCL to Claimant's AHR, requesting the proofs by August 13, 2012.
5. On August 13, 2012, Claimant's AHR faxed the Department copies of Claimant's medical bills along with a cover letter requesting an extension of the VCL due date to August 23, 2012.
6. On August 23, 2012, the AHR faxed over the remaining verifications.
7. The Department denied Claimant's MA application.
8. On February 11, 2013, 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.

Additionally, as a preliminary matter, the Department contended that Claimant's AHR's hearing request was untimely. A 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 (February 2013), p. 4. In this case, Claimant's AHR filed a request for hearing on February 8, 2013. The Department testified that Claimant was denied MA on September 13, 2012, and argued that, because the AHR's hearing request was filed on February 8, 2013, more than 90 days after the September 13, 2012, Notice, the hearing request was untimely. However, the Department did not provide a copy of the Notice of Case Action denying Claimant's MA with its hearing packet. The Department was unable to establish that a Notice was sent to Claimant and to the AHR, who was Claimant's AR during the application process. The AHR denied receiving a Notice. In fact, the hearing request asks that Claimant's application be processed, further supporting the AHR's position that it did not receive a copy of the Notice of Case Action denying the application and putting the Department on notice that it would have to establish that notice was sent to the AHR if it wished to argue that the AHR's hearing request was untimely. Because the Department failed to satisfy its burden of showing when a Notice was sent or that it was sent to the AHR, the hearing request is not subject to dismissal based on timeliness. Therefore, the merits of Claimant's concerns were addressed at the hearing and in this Hearing Decision.

At the hearing, the Department testified that Claimant's MA application was denied because Claimant had failed to verify requested information. The Department established that it sent a VCL to Claimant on July 2, 2012, requesting verification of (i) medical expenses, (ii) checking account, (iii) 401(k), and (iv) wages. The AHR produced a copy of the VCL showing that it was forwarded to the AHR with a handwritten notation extending the due date to August 13, 2012. The Department did not dispute that it forwarded the VCL to the AHR and extended the due date. However, the Department contended that the only response it received to the VCL were copies of Claimant's medical expenses. The AHR presented a fax confirmation sheet showing that it sent the Department a copy of the medical expenses on August 13, 2012, as well as a cover sheet requesting an extension of the VCL due date to August 23, 2012. When a client cannot provide the requested verifications despite a reasonable effort, the Department must extend the ten-calendar-day time limit to provide verifications up to three times. BAM 130 (May 2012), p. 5. Although the Department denied receiving a request by the AHR to extend the VCL due date, the Department acknowledged receiving the medical bills sent by the AHR and the AHR established that the medical bills transmitted to the Department included a cover letter requesting an extension of the VCL due date to August 23, 2012, asking the Department to notify the AHR if the extension was not granted. Because there was no evidence that the extension was denied, the AHR established that the due date for the remaining verifications in the VCL was August 23, 2012.

The Department, nevertheless, contends that it did not receive the additional requested verifications at any time prior to the hearing date. At the hearing, the AHR presented a fax confirmation showing that it sent a 21-page fax on August 23, 2012, to the Department, at the fax number verified by the worker at the hearing. The fax confirmation sheet shows that the first page of the fax was a cover letter dated August 23, 2012, addressed to the Department worker and referencing Claimant's name, case number and social security number. This cover letter stated that Claimant's medical bills, and bank, income and 401(k) verifications were attached. The AHR provided the 20 page packet that followed the cover letter, which consisted of the following: (i) 5 pages of medical bills (duplicative of those sent on August 13, 2012) (ii) 4 pages of [REDACTED] statements (dated May 16, 2012; June 18, 2012; July 18, 2012; and August 17, 2012); (iii) 8 pages of paystubs (for checks dated May 4, 2012; May 18, 2012; June 1, 2012; June 15, 2012; June 29, 2012; July 13, 2012; July 27, 2012; and August 10, 2012); and (iv) a 3-page personal portfolio review concerning Claimant's [REDACTED] investment. This evidence was sufficient to establish that the AHR submitted all of the requested documentation concerning Claimant's medical bills, bank account, wages and 401(k) investment to the Department by the VCL extended due date. Thus, the Department did not act in accordance with Department policy when it denied Claimant's MA application on the basis that Claimant failed to provide requested verifications.


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 May 18, 2012, MA application, with retroactive coverage.

Accordingly, the Department's 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 May 18, 2012, MA application, with retroactive coverage;
2. Begin reprocessing the application in accordance with Department policy;
3. Provide Claimant with MA coverage he is eligible to receive from the date retroactive coverage was requested;
4. Notify Claimant 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: June 12, 2013

Date Mailed: June 13, 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:

