

**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.: 2014-11289
Issue No(s): 2002
Case No.: ██████████
Hearing Date: January 22, 2014
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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, a three-way telephone hearing was held on January 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR), ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Assistant Payment Worker.

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) based on disability application dated April 29, 2013 and retroactive MA coverage from January 2013?

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 April 29, 2013, Claimant's AHR applied for MA based on disability application and also sought retroactive MA coverage from January 1, 2013, ongoing. See Exhibits 1 and A.
2. On May 1, 2013, the Department sent Claimant a Notice of Case Action notifying him that his MA based on disability application was denied effective April 1, 2013, ongoing, due to him not being disabled and also his income exceeds the limit for MA. See Exhibit 1.

3. However, the Department denied the MA based on disability application in error. See Exhibit 1.
4. On July 2, 2013, Claimant's AHR filed a hearing request, protesting the denial. See Exhibits 1 and A.
5. On July 12, 2013, the Department sent Claimant's AHR a Hearing Summary packet, which also included a Medical Determination Verification Checklist (medical packet). The medical packet required several medical records to be completed by Claimant's AHR and it was due back by July 22, 2013.
6. On July 12, 2013, the Department also created a Hearing Summary, which stated the MA based on disability application was denied in error and the case was reviewed by the Department and is now pending for MA disability. See Exhibit 1.
7. On July 12, 2013, the Hearing Summary also stated attached exhibits include the Medical Review Team (MRT) packet and a list of medical forms.
8. On July 12, 2013, a pre-hearing conference was held with the Department and Claimant's AHR.
9. On July 23, 2013, Claimant's AHR received the hearing summary packet, which included the medical packet and records.
10. On August 19, 2013, Claimant's AHR submitted a hearing request withdrawal, which stated that DHS verified that the MA based on disability application (retroactive to January 2013) is pending with MRT and a determination of disability has not been made. See Exhibit 1.
11. Neither Claimant nor Claimant's AHR submitted the medical packet by the due date of July 22, 2013.
12. On September 16, 2013, the Department sent Claimant a Notice of Case Action notifying him that his MA based on disability application was denied effective April 1, 2013, ongoing, due the failure to return the medical packet by July 22, 2013. See Exhibit 1.
13. On October 29, 2013, Claimant filed a hearing request, protesting the MA based on disability application denial. See Exhibit A.

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 Reference 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, on March 20, 2013, the Department sent Claimant a Notice of Case Action denying Claimant's MA based on disability application effective January 1, 2013, ongoing. See Exhibit 1. This was a separate application not done by Claimant's AHR. However, Claimant's AHR inquired to address this denial and have it re-sent to them with an MRT denial because the decision is binding and Claimant's AHR is seeking retroactive coverage from January to March 2013. However, this decision will not address the Notice of Case Action dated March 20, 2013 due to lack of jurisdiction and also it was not addressed in Claimant's AHR hearing request. See Exhibit A and BAM 600 (July 2013), pp. 4-5. This decision will only address Claimant's AHR application dated April 29, 2013 and retroactive MA to January 1, 2013, ongoing, as requested by the AHR. See Exhibit A.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130 (July 2013), p. 6. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM 130, p. 6.

The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7. Only adequate notice is required for an application denial. BAM 130, p. 7.

Also, BAM 815 list the process for medical determination and obtaining medical evidence as required. BAM 815 (July 2013), pp. 1-16.

On April 29, 2013, Claimant's AHR applied for MA based on disability application and also sought retroactive MA coverage from January 1, 2013, ongoing. See Exhibits 1 and A. The Department testified that a DHS-49B, 49F, and 49G were submitted with the application; however, neither party provided such documentation as an exhibit. Nevertheless, on May 1, 2013, the Department sent Claimant a Notice of Case Action notifying him that his MA based on disability application was denied effective April 1, 2013, ongoing, due to him not being disabled and also his income exceeds the limit for MA. See Exhibit 1. However, the Department acknowledged it denied the MA based on disability application in error. See Exhibit 1.

Additionally, on July 2, 2013, Claimant's AHR filed a hearing request, protesting the denial. See Exhibits 1 and A. On July 12, 2013, the Department sent Claimant's AHR a

Hearing Summary packet, which also included a medical packet. Specifically, the medical packet included the completion of a Medical Examination Report (DHS-49), Medical Social Questionnaire (DHS-49-F), Authorization to Release (DHS-1555 or DHS-1555-E), Activities of Daily Living (DHS-49-G), Eye Examination Report (DHS-49-I), and medical records. See Exhibit 1. The medical packet was due back by July 22, 2013.

At the hearing, it was determined that the Department sent the medical packet to Claimant's AHR in the hearing summary packet. It was also discovered during the hearing that Claimant's AHR acknowledged that it did receive the hearing summary packet on July 23, 2013. However, Claimant's AHR hearing request dated October 29, 2013, states that it never received a copy of the checklist, or any checklist through the process. See Exhibit A.

Moreover, included with the hearing summary packet was a typed out synopsis of the case called a hearing summary and it was dated July 12, 2013. See Exhibit 1. The hearing summary again stated that the Department denied the MA based on disability application in error. Also, the hearing summary stated "the case was reviewed by the department and is now pending for MA Disability." See Exhibit 1 and A. However, the hearing summary also stated attached exhibits include the MRT packet and a list of medical forms. See Exhibit 1. On July 12, 2013, a pre-hearing conference was held with the Department and Claimant's AHR. On August 19, 2013, Claimant's AHR submitted a hearing request withdrawal, which stated that DHS verified that the MA based on disability application (retroactive to January 2013) is pending with MRT and a determination of disability has not been made. See Exhibit 1.

In the present case, there are two different interpretations of the hearing summary dated July 12, 2013, which ultimately led to the Department concluding Claimant's AHR failed to submit the medical packet and the application was denied.

The Department concludes that it properly sent Claimant's AHR a medical packet along with the hearing summary packet on July 12, 2013. It appears that the Department did not send an individual medical packet to Claimant's AHR. The Department did not receive from the Claimant or Claimant's AHR a submitted medical packet by July 22, 2013. Therefore, on September 16, 2013, the Department sent Claimant a Notice of Case Action notifying him that his MA based on disability application was denied effective April 1, 2013, ongoing, due the failure to return the medical packet by July 22, 2013. See Exhibit 1.

On the other hand, Claimant's AHR interpreted the hearing summary differently. A review of the hearing withdrawal stated that the application is pending with MRT and a determination of disability has not been made. See Exhibit 1. Claimant's AHR testified that it interpreted the hearing summary stating that the application was pending with MRT. The specific section of the hearing summary stated "the case was reviewed by the department and is now pending for MA Disability." See Exhibit 1. Claimant's AHR inferred this specific section to mean the case is pending with MRT and it did not expect any medical packet request as it is pending for a disability decision.

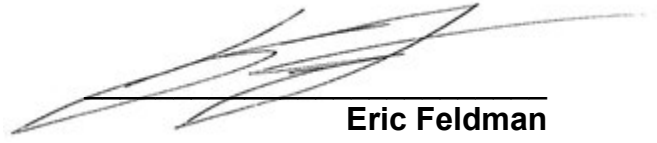
Based on the foregoing information and evidence, the Department properly denied Claimant's MA based on disability application dated April 29, 2013 and retroactive MA coverage from January 2013. It is found that Claimant's AHR interpretation of the hearing summary is not persuasive. If the hearing summary stated the case is now "pending with MRT" for a decision, then Claimant's AHR argument would be persuasive. However, the hearing summary states that it is now pending for MA Disability. See Exhibit 1. This sentence alone does not conclude the case is pending with MRT. Then, the next sentence of the hearing summary stated attached exhibits include MRT packet along with a list of all the medical records. See Exhibit 1. This additional line infers that a medical packet is included with the hearing summary and necessary for completion. Moreover, Claimant's AHR is aware of the MA based on disability process and that a completion of a medical packet is necessary for a disability determination. Claimant's AHR acknowledged that it received the medical packet along with the hearing summary on July 23, 2013. Even though the medical packet was received subsequent to the verification due date, Department policy allows Claimant's AHR up to three additional extensions to obtain the necessary documents. See BAM 130, p. 6. However, the record shows that Claimant's AHR submitted no such requests for an extension. Actually, the only communication shown subsequent to the withdrawal is the hearing request disputing the current denial.

In summary, Claimant's AHR's argument is not persuasive as the Department properly sent the AHR a medical packet along with the hearing summary on July 12, 2013. Nowhere in the hearing summary dated July 12, 2013 does it state the application is pending with MRT. In actuality, it stated that it is pending for MA disability and the next line provides a list of all the medical packets needed for completion. On July 23, 2013, Claimant's AHR acknowledged receipt of the medical packet and failed to submit the necessary documentation. Because Claimant's AHR failed to submit a completed medical packet, the Department properly denied Claimant's MA based on disability application in accordance with Department policy. BAM 105, p. 6; BAM 130, pp. 6-7; and BAM 815, pp. 1-16.

DECISION AND ORDER

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 acted in accordance with Department policy when it properly denied Claimant's MA based on disability application dated April 29, 2013 and retroactive MA coverage from January 2013.

Accordingly, the Department's MA based on disability decision is AFFIRMED.



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

Date Signed: February 10, 2014

Date Mailed: February 10, 2014

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

EJF/cl

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