

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 2014-11732
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: January 22, 2014
County: Wayne (15)

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), [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) application based on disability dated March 22, 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 March 22, 2012, Claimant applied for MA benefits. See Exhibit 1.
2. On May 20, 2013, a previous Administrative Hearing (See Register #2013-26518) was held and both parties entered into a Settlement Order, in which they agreed to reprocess the MA benefits as a disability application dated March 22, 2012.
3. On an unspecified date, the Department reprocessed the disability application and on July 12, 2013, it sent Claimant's AHR a Medical Determination Verification Checklist (medical packet).

4. On July 18, 2013, Claimant's AHR sent the Department a fax, which indicated that the Claimant did not claim disability and the medical packet is not required for the Caretaker/Relative program (G2C). See Exhibit A.
5. Neither Claimant nor Claimant's AHR submitted the medical packet by the due date.
6. On July 29, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA application based on disability was denied effective July 1, 2013, ongoing, due to the failure to return the medical packet and the income exceeds the limit for the program. See Exhibit 1.
7. On November 4, 2013, Claimant's AHR filed a hearing request, protesting the MA 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.

Preliminary matter

As a preliminary matter, the Department argued that Claimant's AHR's hearing request was not timely because it was not received within 90 days of the Notice of Case Action. The Notice of Case Action was sent on July 29, 2013, and the hearing request was received on November 4, 2013. See Exhibits 1 and A. This hearing request was received more than 90 days from the date the written notice. However, Claimant's AHR testified that it never received the Notice of Case Action. Claimant's AHR's hearing request stated that it was verbally informed that the application was denied because of the failure to provide medical information. See Exhibit A. The Department was unable to provide any testimony or documentation if it sent Claimant's AHR the denial letter as required per policy. See BAM 600 (July 2013), pp. 4-5.

Based on the foregoing information and evidence, it is found that the Department failed to notify Claimant's AHR via written notice that the application was denied in accordance with Department policy. See BAM 600, pp. 4-5. The Department was unable to provide any testimony or documentation if it sent Claimant's AHR the denial letter. Therefore, Claimant's AHR's hearing request is not untimely and this hearing decision will proceed with addressing the denial letter. BAM 600, pp. 4-5.

MA application

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

On March 22, 2012, Claimant applied for MA benefits. See Exhibit 1. A review of the application indicated that it stated the Claimant was able to work, but it also listed her medical condition as GI Hemorrhage. See Exhibit A. Moreover, on May 20, 2013, a previous Administrative Hearing (See Register # 2013-26518) was held and both parties entered into a Settlement Order, in which they agreed to reprocess the MA benefits as a disability application dated March 22, 2012.

On an unspecified date, the Department reprocessed the disability application and on July 12, 2013, it sent Claimant's AHR a medical packet. It should be noted that Claimant's AHR testified that it does not dispute the medical verifications were not returned. Instead, Claimant's AHR testified that the Department processed the application improperly. Claimant's AHR testified that the Department should not have processed the MA benefits as a disability application. Rather, the AHR testified that Claimant did not state she was disabled and did not apply for disability-related MA. See Exhibit A. The AHR testified that the Claimant had a son who was 19-years-old at the time of application and enrolled full-time in high school and expected to graduate before turning 20. See Exhibit A. Claimant's AHR testified that the son met the definition of a "dependent child" for the Low-Income Family (LIF) – MA program. See BEM 110 (July 2013), p. 6. Moreover, per BEM 105, Claimant's AHR stated that DHS must consider all possible MA categories. BEM 105 (July 2013), p. 3.

Additionally, on July 18, 2013, Claimant's AHR sent the Department a fax, which indicated that the Claimant did not claim disability and the medical packet is not required for G2C. See Exhibit A. However, a review of the Settlement Order D&O shows that the MA benefits should be processed as a disability application. Claimant's AHR testified that he could not recall if he agreed upon that decision. Additionally, it

appears that Claimant's AHR did not appeal the Settlement Order, in which to dispute the application should not have been processed as a disability application.

The Department testified that it processed the application properly as per the Settlement Order (See Reg # 2013-26518). The Department testified that it was present at the previous Administrative Hearing, in which it recalled the AHR stating the application should have been a disability application. Therefore, the Department testified that it processed the MA benefits as a disability application as agreed upon.

Moreover, neither Claimant nor Claimant's AHR submitted the medical packet by the due date. Thus, on July 29, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA application based on disability was denied effective July 1, 2013, ongoing, due to the failure to return the medical packet and the income exceeds the limit for the program. See Exhibit 1. It should be noted that the Notice of Case Action did not state that it was denied effective March 1, 2012, ongoing, as that was the application date. The Department testified that it was denied for the current benefit period and that it could not go back to March 2012, unless it was approved.

Based on the foregoing information and evidence, the Department properly denied Claimant's MA based on disability application dated March 22, 2012.

First, it is found that Claimant's AHR's argument that the MA application should not have been processed as a disability application is barred by collateral estoppel. On May 20, 2013, a previous Administrative Hearing (See Register # 2013-26518) was held and both parties entered into a Settlement Order in which they agreed to reprocess the MA benefits as a disability application dated March 22, 2012. At this point, if Claimant's AHR wanted to dispute the finding that the application should not have been processed as a disability application, they should have filed an appeal. See BAM 600, pp. 40-41. However, it was determined during the hearing that Claimant's AHR did not file an appeal. A review of the Settlement Order D&O clearly indicated that the application was to be processed as a disability application. The decision to process the MA benefits as a disability application was previously litigated in the Administrative Hearing between the parties and is binding and conclusive on those parties in any future litigation (referred to as "issue preclusion"). Therefore, it is found that the Department properly processed the MA application dated March 22, 2012 as a disability application.

Second, on July 12, 2013, the Department sent Claimant's AHR a medical packet and Claimant's AHR acknowledged that it failed to return the requested documentation. However, Claimant's AHR argued that per BEM 105, Claimant's DHS must consider all possible MA categories. BEM 105, p. 3. BEM 105 states that the Department must consider all the MA category options in order for the client's right of choice to be meaningful. BEM 105, p. 3. However, the Department processed the application as a disability application and sent Claimant's AHR a medical packet. Therefore, the Department properly denied the MA based on disability application due to the failure to return the medical packet. See BAM 105, p. 6; BAM 130, pp. 6-7; and BAM 815, pp. 1-16.

It should be noted that it is harmless error by the Department when it failed to properly put the appropriate denial effective date. The application date was March 22, 2012 and the effective denial date should have been March 1, 2012, ongoing. Nevertheless, Claimant's AHR failed to submit the medical packet and the Department properly denied it in accordance with Department policy.

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 March 22, 2012.

Accordingly, the Department's MA 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.

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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]