

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 2014-16097
Issue No(s): 2004, 2010
Case No.: [REDACTED]
Hearing Date: March 31, 2014
County: Wayne (82-55)

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 four-way telephone hearing was held on March 31, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; [REDACTED]
[REDACTED]

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

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) application dated May 3, 2012 and retroactive coverage to February 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 May 3, 2012, Claimant applied for MA benefits and sought retroactive coverage from February 2012. See Exhibit A.
2. On June 20, 2013, the Department sent Claimant's AHR a Verification Checklist (VCL), which was due back by July 1, 2013. See Exhibits 1 and A.
3. On June 28, 2013, the AHR faxed a request to extend the verification due date to July 11, 2013. See Exhibit 1.

4. On July 9, 2013, the AHR faxed the verification documents to the Department; however, certain documentation was not legible. See Exhibit 1.
5. On or around July 19, 2013, the Department contacted the AHR requesting Claimant submit legible documentation; however, no documentation was submitted. See Exhibit 1.
6. On July 19, 2013, the Department sent Claimant and the AHR a Notice of Case Action notifying him that his MA application was denied effective August 1, 2013, ongoing, due to Claimant not being under 21, pregnant, a caretaker of a minor child in his home, not over 65 (aged), blind, or disabled. See Exhibit 2.
7. On July 30, 2013, the Department sent Claimant and the AHR a Notice of Case Action notifying him that the MA application (Claimant and his son) was denied effective August 1, 2013, ongoing, due to the failure to comply with the verification requirements. See Exhibit 2.
8. On July 30, 2013, the Notice of Case Action also notified Claimant that the MA application (spouse and daughter) was denied effective October 1, 2012, ongoing, due to the failure to comply with the verification requirements. See Exhibit 2.
9. On July 30, 2013, the Notice of Case Action also notified Claimant that the Adult Medical Program (AMP) application (spouse and son) was denied effective October 1, 2012, to July 31, 2013, due to the failure to comply with the verification requirements. See Exhibit 2.
10. On July 30, 2013, the Notice of Case Action also notified Claimant that the AMP application (Claimant, spouse, and son) was denied effective August 1, 2013 to August 31, 2013, due to the failure to comply with the verification requirements. See Exhibit 2.
11. On December 4, 2013, the AHR filed a hearing request, protesting the Department's failure to process Claimant's MA application/retroactive coverage. See Exhibit A.
12. On February 19, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled Claimant/AHR for a hearing on February 19, 2014.
13. On February 20, 2014, the MAHS sent Claimant/AHR an Order of Dismissal for failure to attend the scheduled hearing on February 19, 2014.
14. On March 10, 2014, the AHR submitted a Request to Vacate Dismissal.
15. On March 13, 2014, the Supervising Administrative Law Judge (ALJ) sent Claimant/AHR an Order Vacating the Dismissal and Order to Schedule Matter for Hearing.

16. On March 17, 2014, the MAHS sent Claimant a Notice of Hearing, which rescheduled Claimant/AHR for a hearing on March 31, 2014.

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.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

Lack of Jurisdiction

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (March 2014), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In the present case, on May 3, 2012, Claimant applied for MA benefits and sought retroactive MA coverage from February 2012. See Exhibit A. On July 19, 2013, the Department sent Claimant and the AHR a Notice of Case Action notifying him that his MA application was denied effective August 1, 2013, ongoing. See Exhibit 2.

Additionally, on July 30, 2013, the Department sent Claimant and the AHR a Notice of Case Action notifying him that the MA application (Claimant and his son) was denied effective August 1, 2013. See Exhibit 2. On July 30, 2013, the Notice of Case Action also notified Claimant that the MA application (spouse and daughter) was denied effective October 1, 2012, ongoing. See Exhibit 2. On July 30, 2013, the Notice of Case Action also notified Claimant that the Adult Medical Program (AMP) application (spouse and son) was denied effective October 1, 2012, to July 31, 2013. See Exhibit 2. On July 30, 2013, the Notice of Case Action also notified Claimant that the AMP application (Claimant, spouse, and son) was denied effective August 1, 2013, to August 31, 2013. See Exhibit 2.

However, the AHR did not file a request for hearing to contest the Department's action until December 4, 2013. See Exhibit A. Furthermore, the AHR confirmed receipt of both Notices of Case Action (dated July 19, 2013, and July 30, 2013).

Based on the above information, the AHR's hearing request was not timely filed within ninety days of the Notices of Case Action (dated July 19, 2013, and July 30, 2013). Therefore, this hearing lacks the jurisdiction to address Claimant's AMP/MA denial effective August 1, 2013, ongoing. BAM 600, p. 6.

Failure to Process

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (May 2012), p. 11.

Any person, regardless of age, or their authorized representative (AR) may apply for assistance. BAM 110 (May 2012), p. 4. The Department must register a signed application or filing form, with the minimum information, within one work day for all requested programs. BAM 110, p. 16.

The standard of promptness (SOP) begins the date the Department receives an application/filing form, with minimum required information. BAM 115 (May 2012), p. 12. For MA applications, the Department certifies the program approval or denial of the application within 45 days. BAM 115, p. 12.

Moreover, if the group is ineligible or refuses to cooperate in the application process, the Department must certify the denial within the SOP and also send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 18. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 19.

In this case, on May 3, 2012, Claimant applied for MA benefits and sought retroactive MA coverage from February 2012. See Exhibit A. As stated above, the Department sent Claimant/AHR two subsequent Notices of Case Action (dated July 19, 2013, and July 30, 2013), which denied Claimant's AMP/MA applications effective August 1, 2013, ongoing. See Exhibit 2. However, neither Notice of Case Action addressed Claimant's

MA eligibility from the application month of May 2012 or retroactive request from February 2012.

Based on the foregoing information and evidence, the Department failed to process Claimant's MA application dated May 3, 2012, and retroactive application dating back to February 2012. A review of the Notices of Case Action (dated July 19, 2013, and July 30, 2013) shows that they only addressed Claimant's MA/AMP denial effective August 1, 2013, ongoing. See Exhibit 2. However, the evidence presented no MA eligibility determination for Claimant from February 2012 through July 30, 2013. Thus, the Department will re-register and process Claimant's MA application dated May 3, 2012, and retroactive MA application from February 2012 through July 30, 2013, in accordance with Department policy. BAM 105, p. 11; BAM 110, pp. 4 and 16; and BAM 115, pp. 12, 18 and 19.

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 (i) acted in accordance with Department policy when it properly denied Claimant's AMP/MA application effective August 1, 2013, ongoing; and (ii) it did not act in accordance with Department policy when it failed to process Claimant's MA application dated May 3, 2012, and retroactive application from February 2012.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the AMP/MA denial effective August 1, 2013, ongoing and REVERSED IN PART with respect to Claimant's MA eligibility determination for February 2012 through July 30, 2013.

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. Initiate re-registration and processing of Claimant's MA application dated May 3, 2012, retroactive to February 2012 through July 30, 2013;
2. Begin issuing supplements to Claimant for any MA benefits he was eligible to receive but did not from February 2012 through July 30, 2013; and

3. Begin notifying Claimant and Claimant's AHR in writing of its MA decision in accordance with Department policy.



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

Date Signed: April 14, 2014

Date Mailed: April 14, 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/pf

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]