

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014 26892
Issue No(s): 2004
Case No.: ██████████
Hearing Date: April 3, 2014
County: Wayne Count DHS 76

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, three way telephone hearing was held on April 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included █████ █████ █ █████ █████ the Claimant's Authorized Hearing Representative. The Claimant did not appear. Participants on behalf of the Department of Human Services (Department) included ██████████ Medical Contact Worker and ██████████ Medical Contact Worker.

ISSUE

Did the Department properly process and notify the Claimant's AHR of the denial of the application for Medical Assistance (MAP-P)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department sent a DHS 4958 Medical Program Eligibility Notice to L&S Associates at P.O. Box 21129, Lansing Michigan 48909 on September 10, 2013 which Notice advised the Claimant's AHR of the Denial of the Claimant application and retro application . Exhibit 1.
2. The Notice was properly addressed and mailed.
3. The Claimant's AHR requested a hearing on January 31, 2014 requesting that the Department provide evidence of its processing of the Claimant's 9/26/12 application and whether MA coverage was active.

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.

Additionally, the evidence presented in this case established that the Department did process the 9/26/12 MA-P application and retro application. The Department produced a Medical Program Eligibility Notice indicating that the application and retro application was denied by the MRT and mailed the notice to L&S Associates on 9/10/13. Exhibit 1. The address the Notice was sent to was the correct address for the AHR. The DHS Medical Contact Worker who manually prepared the notice credibly testified that she typed in the information when she prepared the notice and hand addressed the mailing envelope and deposited it in the mail room of the DHS. The Medical Contact Worker prepares these notices manually for all cases where the Claimants are represented by third party representatives, including L&S.

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). The Department established by the evidence that the Notice was properly addressed and mailed and, therefore, is presumed to be received. The presumption of its actions constituting receipt with respect to the notice was not sufficiently rebutted as the only evidence to rebut the presumption of mailing by L&S was that they did not receive it. No other evidence regarding issues or problems with L&S receiving DHS mail was presented. Additionally the DHS witness recalled the Notice as she does not do that many of them and succinctly described the process she follows when sending third party notices to AHRS.

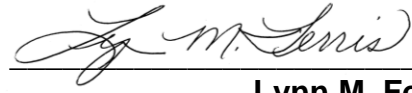
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department

acted in accordance with Department policy when it processed the case to the Medical Review Team and provided Notice by sending a DHS 4598 to the Claimant's AHR L&S Associates at the correct address.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.


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

Date Signed: April 3, 2014

Date Mailed: April 3, 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

LMF/tm

cc: 