



3. On February 19, 2013, the Department sent the AR a Notice of Case Action regarding the MA benefits. See Exhibit 1.
4. On June 6, 2013, the Administrative Law Judge (ALJ) sent a D&O in which it ordered the Department to issue a Notice of Case Action with a new mailing date, announcing to Claimant and her AR the terms of the approval of MA and retroactive MA benefits, and permitting Claimant the standard 90-day period in which to appeal the decision and all steps shall be taken in accordance with Department policy and procedure. See Exhibit 1.
5. On June 14, 2013, the Department resent to the AR the Notice of Case Action dated February 19, 2013.
6. The Department failed to send Claimant a new Notice of Case Action and therefore, failed to comply with the D&O.
7. On December 27, 2013, Claimant's AHR filed a hearing request, protesting the Department's failure to process the D&O from the previous hearing regarding the Claimant's MA application/retro request. See Exhibit 1.
8. On March 18, 2014, the Michigan Administrative Hearing System (MAHS) sent the AHR a Notice of Hearing, which scheduled a hearing on April 1, 2014.
9. On April 3, 2014, the ALJ sent Claimant an Order Granting Adjournment.
10. On April 9, 2014, the MAHS sent the AHR a Notice of Hearing, which rescheduled a hearing on April 21, 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.

All hearing decisions must be recorded in the system, on the Hearing Restore Benefits screen. BAM 600 (February 2013), p. 32. Some hearing decisions require implementation by the local office. BAM 600, p. 32. The Department implements a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 32. The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, p. 33. The

Department completes and sends the DHS-1843, Administrative Hearing Order Certification, to MAHS to certify implementation and place a copy of the form in the case file. BAM 600, p. 33.

On July 27, 2010, Claimant's AR (who is also the AHR) applied for MA benefits on behalf of the Claimant and also sought retroactive coverage to April 2010. See Exhibit 1. On September 8, 2011, the AHR filed a previous hearing request, protesting the Department's failure to process the MA application. See Exhibit 1. On February 19, 2013, the Department sent the AR a Notice of Case Action regarding the MA benefits. See Exhibit 1. On May 20, 2013, the AHR attended a previous hearing. In the hearing decision, the ALJ found that the Department failed to issue a Notice of Case Action to the Claimant in a timely fashion. See Exhibit 1. Moreover, the ALJ found that the AHR did not receive the Notice of Case Action in February 2013, which it then deprived their opportunity to challenge the terms of approval stated in the Notice. See Exhibit 1. Therefore, the ALJ determined it necessary for the Department to issue a new Notice of Case Action. See Exhibit 1. On June 6, 2013, the ALJ sent a D&O in which it ordered the Department to issue a Notice of Case Action with a new mailing date, announcing to Claimant and her AR the terms of the approval of MA and retroactive MA benefits, and permitting Claimant the standard 90-day period in which to appeal the decision and all steps shall be taken in accordance with Department policy and procedure. See Exhibit 1.

At the hearing, the Department testified that on June 14, 2013, the Department resent to the AR the Notice of Case Action dated February 19, 2013. In essence, the Department just re-sent a copy of the Notice of Case Action, rather than reprocess the application. Therefore, the Department failed to send Claimant a new Notice of Case Action and failed to comply with the D&O. BAM 600, pp. 32 and 33.

It should be noted that the AHR testified that some MA coverage was applied for the Claimant; however, it was ultimately seeking coverage for May 2010, February 2011, and June 2011. Therefore, it appeared to the AHR that the Department partially processed the application, however, failed to apply coverage for the above three months.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (March 2013), p. 11. Any person, regardless of age, or their authorized representative (AR) may apply for assistance. BAM 110 (January 2013), p. 4. The Department must register a signed application or filing form, with the minimum information, within one workday 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 2013), p. 12. For MA applications, the Department certifies the program approval or denial of the application within 45 days. BAM 115, p. 13. However, there are exceptions to these benefits programs for processing times, which are described as follows: 90 days for MA categories in which disability is an eligibility factor. BAM 115, p. 13. The SOP can be

extended 60 days from the date of deferral by the Medical Review Team. BAM 115, p. 13.

Moreover, if the group is ineligible or refuses to cooperate in the application process, the Department must certify the denial within the standard of promptness 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.

Based on the foregoing information and evidence, the Department failed to properly process Claimant's MA application dated July 27, 2010, retroactive to April 2010. BAM 105, p. 4; BAM 110, pp. 4 and 16; and BAM 115, pp. 12, 13, and 18-19. As shown above, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to properly implement and certify the D&O sent on June 6, 2013 (Reg. #2013-24260). A review of the previous administrative hearing stated that the Department sent a Notice of Case Action in February 2013, which the AR did not receive nor was it part of previous administrative hearing record. See Exhibit 1. As such, the ALJ determined it necessary for the Department to issue a new Notice of Case Action and the ALJ ordered for a Notice of Case Action to be sent to the Claimant/AR. See Exhibit 1. Instead, the Department did not issue a new Notice of Case Action and it just resent a copy of the previous Notice of Case Action dated February 19, 2013. In order for the Department to send a new Notice of Case Action that would require a re-registration/reprocessing of the application, which the Department failed to do. Therefore, the Department will reprocess the MA application dated July 27, 2010, retroactive to April 2010.

### **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) failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to properly implement and certify the D&O sent on June 6, 2013 from the previous administrative hearing (Reg. #2013-24260); and (ii) did not act in accordance with Department policy when it failed to properly process Claimant's MA application dated July 27, 2010, retroactive to April 2010.

Accordingly, the Department's MA decision is REVERSED.

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. Implement and certify the D&O mailed on June 6, 2013 from the previous administrative hearing (Reg. #2013-24260) in accordance with Department policy;

2. Initiate re-registration and reprocessing of Claimant's MA application dated July 27, 2010, retroactive to April 2010;
3. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive but did not from April 2010, ongoing; and
4. 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: May 1, 2014

Date Mailed: May 1, 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

2014-24511/EJF

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]  
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