

**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.: 2014-25772
Issue No(s): 2004
Case No.: ██████████
Hearing Date: April 24, 2014
County: Wayne (17)

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 April 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's Authorized Hearing Representative (AHR), ██████████, Inc. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Medical Contact Worker.

ISSUES

Did the Department properly implement and certify a previous Decision and Order (D&O) regarding an administrative hearing held on February 25, 2013?

Did the Department properly process Claimant's Medical Assistance (MA) application dated November 14, 2008, retroactive to August 2008?

Did the Department properly process Claimant's MA application dated March 11, 2011, retroactive to December 2010?

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 November 14, 2008, Claimant and/or the authorized representative (AR) (who is also the AHR) applied for MA benefits, retroactive to August 2008. See Exhibit A.

2. On March 11, 2011, Claimant and/or the AR again applied for MA benefits retroactive to December 2010. See Exhibit A.
3. On November 15, 2012, the AHR filed a previous hearing request, protesting the Department's failure to process the MA application. See Exhibit A.
4. On February 28, 2013, the Administrative Law Judge (ALJ) sent a D&O in which it ordered the Department to process both applications and retroactive coverage (See Reg. #2013-26647). See Exhibit A.
5. Subsequent to the previous hearing, the AHR did not receive any correspondence regarding the status of the applications (e.g., Notice of Case Action).
6. The Department failed to properly process the applications and therefore, failed to comply with the D&O.
7. On December 3, 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 applications/retro requests. 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.

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 November 14, 2008, Claimant and/or the AR (who is also the AHR) applied for MA benefits, retroactive to August 2008. See Exhibit A. Then, on March 11, 2011, Claimant and/or the AR again applied for MA benefits retroactive to December 2010. See Exhibit A.

On November 15, 2012, the AHR filed a previous hearing request, protesting the Department's failure to process the MA application. See Exhibit A. On February 25, 2013, the AHR attended a previous hearing. See Exhibit A. In the Findings of Fact, the ALJ found that the Department never approved or denied both applications and never sent notices to Claimant and/or the AHR regarding the action on either application. See Exhibit 1. As such, both parties entered into a Settlement Order, in which the ALJ ordered the Department to process both applications (including the retroactive coverage) on February 28, 2013. See Exhibit A.

At the hearing, the Department testified that it complied with the D&O, however, did not provide as evidence a DHS-1843, showing that it complied. See BAM 600, p. 33. The Department testified that it processed the application and it is currently pending. The Department testified that Claimant was approved for MA - Supplemental Security Income (SSI) coverage and that the Department needs to issue a help desk ticket in order to apply coverage dating back to the application date. The Department did not present evidence of the application being processed and/or the ticket has not yet been issued. The Department acknowledged that no correspondence was sent to the AHR regarding the status of the application (e.g., Notice of Case Action).

The AHR testified that subsequent to the hearing, it did not receive any correspondence regarding the status of the application (e.g., Notice of Case Action). See Exhibit A. Therefore, on December 3, 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 applications/retro requests. See Exhibit A.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (November 2012), 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 (January 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 both of the Claimant's applications/retroactive request. BAM 105, p. 11; BAM 110, pp. 4 and 16; and BAM 115, pp. 12, 13, and 18-19.

First, the Department failed to present as evidence a DHS-1843 to show that it complied with the D&O. Therefore, 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 February 28, 2013 (Reg. #2013-26647). BAM 600, pp. 32-33.

Second, a review of the previous administrative hearing indicated that it ordered the Department to process both applications and retroactive coverage. The Department testified that it did process the application. The Department testified the MA application is pending coverage because Claimant was approved for MA-SSI coverage and a help desk ticket needs to be issued in order to apply the MA coverage dating back to the application. The above testimony indicates that the Department failed to process the application properly. The Department has yet to issue a ticket to apply coverage, and also did not provide any evidence of the application being processed. Moreover, the Department has not sent any correspondence to the AHR regarding the status of the application (e.g., Notice of Case Action). The evidence presented that the Department has failed to properly process both of Claimant's applications in accordance with Department policy. BAM 105, p. 11; BAM 110, pp. 4 and 16; and BAM 115, pp. 12, 13, and 18-19. Therefore, the Department will reprocess both MA applications (dated November 14, 2008 and March 11, 2011), including the applicable retroactive periods.

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 February 28, 2013 from the previous administrative hearing (Reg. #2013-26647); and (ii) did not act in accordance with Department policy when it failed to properly process Claimant's first MA application dated November 14, 2008, retroactive to August 2008 and the second MA application dated March 11, 2011, retroactive to December 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 February 28, 2013, from the previous administrative hearing (Reg. #2013-26647) in accordance with Department policy;

2. Initiate re-registration and reprocessing of Claimant's MA application dated November 14, 2008, retroactive to August 2008;
3. Initiate re-registration and reprocessing of Claimant's MA application dated March 11, 2011, retroactive to December 2010;
4. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive but did not in accordance with Department policy; and
5. 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 6, 2014

Date Mailed: May 6, 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

2014-25772/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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