

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

IN THE MATTER OF:

██████████
██
██
██

Reg. No.: 2014-35457
2013-42246 REMANDED
Issue No(s): 2001
Case No.: ██████████
Hearing Date: June 2, 2014
County: Macomb (50-12)

**Issued and entered
this 18th day of June, 2014,
by:
Alice C. Elkin
Administrative Law Judge**

**DECISION AND ORDER AFTER NEW HEARING PURSUANT TO CIRCUIT COURT
REMAND**

PROCEDURAL HISTORY

Pursuant to an April 25, 2013, Request for Hearing filed on behalf of Claimant ██████████ ██████████ Claimant's authorized hearing representative (AHR), a July 30, 2013 telephone hearing was scheduled in the above-referenced matter.

On July 31, 2013, the Michigan Administrative Hearing System (MAHS) sent Claimant an Order of Dismissal notifying her that her hearing had been dismissed because she had not appeared at the hearing.

On August 27, 2013, MAHS received Claimant's Motion for Rehearing/Reconsideration filed by the AHR.

On October 1, 2013, MAHS Supervising Administrative Law Judge Kathleen H. Svoboda issued an Order Denying Request for Rehearing/Reconsideration because no hearing was held on the matter, and, consequently, no hearing decision was issued.

On November 1, 2013, the AHR filed a Claim of Appeal in the Macomb County Circuit Court.

On April 1, 2014, the parties signed a Stipulation to Remand and Dismiss Administrative Appeal, agreeing that the appeal should be remanded to MAHS for a hearing on the hearing request filed by Claimant's AHR.

On April 7, 2014, the Honorable Edward A. Servitto, Jr., Circuit Court Judge for Macomb County, entered an Order remanding the matter back to MAHS, incorporating the terms agreed to by the parties. The Circuit Court dismissed the matter with prejudice and did not retain jurisdiction.

On June 2, 2014, a telephone hearing was held from Detroit pursuant to the Circuit Court Order. Participants on behalf of Claimant included [REDACTED] Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly deny Claimant's eligibility for Medical Assistance (MA) benefits for May 2012?

FINDINGS OF FACT

1. Claimant died in [REDACTED]
2. On [REDACTED], the Macomb County Probate Court granted letters of authority appointing a special personal representative (PR) to pursue Medical Assistance (MA) benefits on Claimant's behalf.
3. On August 30, 2012, the AHR faxed a filing form concerning Claimant to the Department.
4. On October 1, 2012, the PR granted the AHR authorization to represent Claimant in connection with any proceedings necessary to establish MA eligibility.
5. On October 18, 2012, the AHR submitted an MA application on Claimant's behalf signed by the AHR on August 17, 2012, with a request for MA coverage for May 2012.
6. The Department denied Claimant MA coverage for May 2012 on the basis that the requested retroactive coverage was more than three months prior to the October 18, 2013 application.

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 Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

As a preliminary matter, it is noted that the AHR failed to present documentation showing it had authority to represent Claimant at the hearing. The PR granted the AHR authority to act on Claimant's behalf in the pursuit of MA benefits on October 1, 2012. The PR's letters of authority expired on January 19, 2013. At the time the AHR filed its hearing request on April 25, 2013, alleging that the Department had failed to process a request for assistance filed on August 30, 2012, and completed on October 18, 2012, there was no documentation in the file that the PR, and consequently the AHR, had continuing authority to act on Claimant's behalf. When asked at the hearing about its authority to act on Claimant's behalf following the expiration of the PR's letters of authority on January 19, 2013, the AHR testified that it had documentation and agreed to fax it after the hearing. The provided documentation shows that the PR notified the Macomb County Probate Court on December 30, 2013, of the continued administration of Claimant's estate and requested updated letters of authority; however, there was no evidence that continuing letters of authority were granted at any time after January 19, 2013. Therefore, the AHR lacked authority to act on Claimant's behalf at the hearing. See BAM 600 (March 2014), pp. 2-3.

Even, assuming *arguendo*, that the AHR has the requisite authority to represent Claimant at the hearing, the AHR has failed to establish that it had authority to act on Claimant's behalf in the pursuit of MA benefits for May 2012. Department policy provides that an MA application may be made for a deceased person but not for MA eligibility after the month of death. BAM 110 (May 2012), p. 3. The evidence at the hearing established that Claimant died in [REDACTED]. As such, she was not eligible for MA for any months after [REDACTED]. Retroactive MA coverage is available to the first day of the third calendar month prior to a current MA application. BAM 115 (May 2012), pp. 9-10. Therefore, in order for Claimant to be eligible for MA for [REDACTED] an application would have to have been submitted on her behalf by [REDACTED].

The Department contended that the only application it received for Claimant was on October 18, 2012, which would **not** make her eligible for benefits in [REDACTED]. The AHR responded that it had sent the Department a filing form on August 30, 2012, to preserve that date as the filing date for the application it submitted on October 18, 2012. A filing form (DHS-1171) serves to protect a client's application date. BAM 110, pp 1-2. Although the Department denied receiving a filing form for Claimant from the AHR, the

AHR presented a fax confirmation showing that on August 30, 2012, it faxed a 4-page document to the Department at the fax number the Department acknowledged was its current fax number referencing Claimant's name and "(incomplete app)." The AHR testified that the fax included the August 30, 2012, filing form. A copy of the filing form was admitted into evidence. The evidence presented was sufficient to establish that the AHR filed a filing form on Claimant's behalf on August 30, 2012.

However, at the hearing, the Department pointed out that the AHR did not have authority to act on Claimant's behalf at the time it signed the August 30, 2012, filing form. Before a filing form is registered, it must be signed by the client or authorized representative (AR). BAM 115 (May 2012), p. 2. An AR is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf. BAM 110, p. 7. For MA, an AR may be court-appointed. BAM 110, p. 9. With respect to an MA application, a person who applies on behalf of the client and is not the client's spouse, parent, legal guardian, adult child, stepchild, or specified relative, must have a signed authorization to act on behalf of the client given by the client, client's spouse, parent(s) or legal guardian. BAM 110, p. 8.

The filing form dated August 30, 2012, presented into evidence was signed by a representative of the AHR. However, the PR did not receive letters of authority to act on Claimant's behalf until September 25, 2012, and the PR did not grant the AHR authority to pursue MA benefits on Claimant's behalf until October 1, 2012. Therefore, the AHR lacked authority to apply for MA on Claimant's behalf at the time it filed the filing form on August 30, 2012.

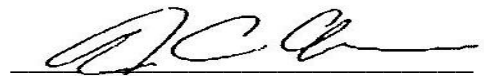
The AHR argues that the Department failed to act in accordance with Department policy when it did not notify the AHR that it did not receive documentation of the AHR's authority to act on Claimant's behalf, and, as a result, it was denied the opportunity to remedy the issue of its authority. Under BAM 110, pp 8-9, when an assistance application for MA is received in the local office without the applicant's signature or without a signed document authorizing someone to act on the applicant's behalf, the Department must register the application and send a DHS-330, Notice of Missing Information, requesting a valid signature or missing information, allowing ten days for a response.

However, the intent of the policy is not to allow an anticipated hearing representative to obtain authorization he or she should have had when the application (or in this case, the filing form) was filed but to provide it in the event it was unintentionally not submitted with the application (or filing form). The evidence in this case establishes that the AHR did not have authority to act on Claimant's behalf at the time the filing form was submitted and did not obtain this authority until October 1, 2012. Even if the Department had notified the AHR that the filing form failed to include documentation of the AHR's authorization, the AHR could not cure the fact that it lacked authority to act on Claimant's behalf on August 30, 2012, by obtaining proper authorization after August 30, 2012.

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 denied Claimant's eligibility for MA coverage for [REDACTED].

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 17, 2014

Date Mailed: June 18, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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:

2014-25457/ACE
2013-42246 REMANDED

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]