

**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.: 14-004453
Issue No.: 2001; 2004
Case No.: ██████████
Hearing Date: August 6, 2014
County: WAYNE-DISTRICT (15)

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 August 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR), ██████████ from ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Medical Contact Worker.

ISSUES

Did the Department properly process Claimant's Retroactive Medical Assistance (MA) application for March 2011?

Did the Department properly determine Claimant's Supplemental Security Income (SSI) - MA eligibility for September 2011 and January 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 April 5, 2011, Claimant became entitled to Supplemental Security Income (SSI) coverage.
2. On November 27, 2013, Claimant's Authorized Representative (AR) (who is also the AHR) applied for retroactive MA coverage for March 2011 on behalf of the Claimant. See Exhibit A, pp. 1-11.

3. On November 27, 2013, the AR also requested retroactive SSI – MA coverage for January 2012 and September 2013. See Exhibit A, p. 3.
4. The Department failed to process Claimant’s retroactive MA application for March 2011 and also failed to process Claimant’s SSI – MA eligibility.
5. On May 20, 2014, Claimant’s AHR filed a hearing request, disputing the Department’s failure to process the retroactive MA application and requested SSI - MA coverage for September 2011 and January 2012. See Exhibit 1, p. 3.

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.

MA retro application

On April 5, 2011, Claimant became entitled to SSI coverage. On November 27, 2013, Claimant’s AR (who is also the AHR) applied for retroactive MA coverage for March 2011 on behalf of the Claimant. See Exhibit A, pp. 1-11. During the hearing, the Department acknowledged that it received the retroactive application and that it failed to process the application.

Ongoing MA eligibility begins the first day of the month of SSI entitlement. BEM 150 (July 2013), p. 1. Some clients also qualify for retroactive (retro) MA coverage for up to three calendar months prior to SSI entitlement. BEM 150, p. 1.

Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110 (July 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. 19.

The DHS-3243, Retroactive Medicaid Application, is used along with the DHS-1171, DHS-4574 or DCH-0373 for retro MA applications. BAM 110, p. 4. Only one DHS-3243 is needed to apply for one, two or three retro MA months. BAM 110, p. 4.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (July 2013), p. 15. For MA applications, the Department certifies the program approval or denial of the application within 45 days. BAM 115, p. 15. 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, pp. 15-16. The SOP can be extended 60 days from the date of deferral by the Medical Review Team (MRT). BAM 115, p. 16.

Retro MA coverage is available back to the first day of the third calendar month prior to, for example, for SSI, entitlement to SSI and other criteria listed in BAM 115. BAM 115, pp. 11-12. A person might be eligible for one, two or all three retro months, even if not currently eligible. BAM 115, p. 12. A separate determination of eligibility must be made for each of the three retro months. BAM 115, p. 12 -14.

Based on the foregoing information and evidence, the Department failed to process Claimant's retroactive MA application. Retro MA coverage is available back to the first day of the third calendar month prior to, for example, for SSI, entitlement to SSI and other criteria listed in BAM 115. BAM 115, pp. 11-12 and BEM 150, p. 1. Claimant became SSI entitled on April 5, 2011. During the hearing, the Department acknowledged that it received the retroactive application and that it failed to process the application. As such, the Department will register and process Claimant's retroactive MA application, regarding the MA coverage for March 2011 in accordance with Department policy.

MA eligibility for September 2011 and January 2012

As stated previously, Claimant became entitled to SSI on April 5, 2011. On May 20, 2014, Claimant's AHR filed a hearing request, requesting SSI - MA coverage for September 2011 and January 2012. See Exhibit 1, p. 3.

On November 27, 2013, the AR on behalf of the Claimant requested retroactive SSI – MA coverage for January 2012 and September 2013; however, did not request coverage for September 2011 as indicated in the hearing request. See Exhibit 1, p. 3 and Exhibit A, p. 3. The evidence indicated that the Department did not respond to the request for SSI – MA coverage for January 2012 or September 2013. As such, on May 20, 2014, Claimant's AHR filed a hearing request, requesting SSI - MA coverage for September 2011 and January 2012. See Exhibit 1, p. 3.

It should be noted that below actions occurred subsequent to the AHR's hearing request; however, it is still discussed as it is relevant to the hearing request.

At the hearing, the Department testified that upon receipt of the hearing request, it contacted the AHR requesting a list of medical expenses for September 2011 and January 2012. The Department testified that it requested medical expenses because a help ticket can be issued to override the MA coverage that the Claimant had at the time,

which was the Adult Medical Program (AMP). See Exhibit 1, p. 1. On June 11, 2014, the Department testified that it contacted the AHR via telephone, e-mail, and sent a Verification Checklist (VCL) requesting the medical expenses. The Department testified that it never received the requested medical expenses for September 2011 or January 2012. The evidence packet did not include a copy of the alleged VCL sent. Therefore, the Department argued that due to the failure of the AHR sending the necessary medical verifications, Claimant should not be entitled to the SSI – MA coverage for September 2011 and January 2012.

The AHR acknowledged that it received a phone call from the Department on June 11, 2014; however, it never received a VCL. Thus, the AHR argued that the Department failed to send a proper verification request. The AHR, though, testified that on June 11, 2014, it sent via e-mail the March 2011 medical expenses. Moreover, the AHR testified that it send via fax and/or e-mail all of the medical expenses for March 2011, September 2011, and January 2012 both for today's hearing and the previous day. It appeared that the Department did not receive the medical expenses because it was unable to open the e-mail files and/or the fax has not been received yet. The AHR also argued that it is not necessary for the Department to request medical verifications because Claimant is automatically eligible for SSI – MA coverage when she became SSI eligible in April 2011.

To be automatically eligible for Medicaid (MA) an SSI recipient must both: be a Michigan resident and cooperate with third-party resource liability requirements. BEM 150 (January 2014), p. 1. Ongoing MA eligibility begins the first day of the month of SSI entitlement. BEM 150, p. 1.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (April 2014), p. 15. However, SSI recipients are automatically eligible for current MA. BAM 105, p. 15. A DHS-1171, Assistance Application, is not needed for SSI recipients. BAM 115 (March 2014), p. 10.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2014), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130, p. 7.

Based on the foregoing information and evidence, the Department failed to properly determine Claimant's SSI - MA eligibility for September 2011 and January 2012 in accordance with Department policy. This hearing will not address MA coverage for September 2013 as the AHR confirmed during the hearing that the AHR is only requesting coverage for March 2011, September 2011, and January 2012.

First, the evidence indicated that the Department failed to process Claimant's eligibility for SSI - MA coverage for January 2012. See Exhibit A, p. 3. Even though the Department alleged it sent the AHR a VCL on June 11, 2014, it failed to respond to the

AHR original request for SSI – MA coverage in November 2013. The AHR properly notified the Department on November 27, 2013, that Claimant became entitled to SSI effective April 2011 and to determine MA eligibility for March 2011, January 2012, and September 2013. See Exhibit A, p. 3. However, the evidence indicated that the Department failed to process Claimant's SSI – MA eligibility in response. As such, the Department will determine Claimant's SSI – MA eligibility for January 2012 in accordance with Department policy. See BAM 105, p. 15; BAM 115, p. 10; and BEM 150, p. 1. Again, Claimant's AHR did dispute any MA coverage for September 2013 and it was not referenced in the hearing request. See Exhibit 1, p. 3.

Second, the Department failed to present evidence that it sent the AHR a VCL on June 11, 2014. Even though the AHR acknowledges a phone call requesting the necessary medical expenses, BAM 130 states that the Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. The evidence packet failed to include proof that a VCL was sent requesting verification on June 11, 2014. As such, the Department failed to send Claimant's AHR a VCL requesting proof of the medical expenses for the months of September 2011 and January 2012. See BAM 130, pp. 3 and 7.

Moreover, Claimant's hearing request technically requested SSI – MA coverage for September 2011 and January 2012. The evidence indicated that the Department failed to properly determine Claimant's SSI – MA eligibility for September 2011 and January 2012 upon the AHR's request on May 20, 2014 (hearing request). See Exhibit 1, p. 3. Therefore, the Department will determine Claimant's SSI – MA eligibility for September 2011 and January 2012.

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) did not act in accordance with Department policy when it failed to process Claimant's retroactive MA application (dated November 27, 2013), regarding retroactive coverage for March 2011 and (ii) the Department failed to properly determine Claimant's SSI - MA eligibility for September 2011 and January 2012.

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. Initiate registration and processing of Claimant's retroactive MA application dated November 27, 2013, regarding retroactive coverage for March 2011;

2. Determine Claimant's SSI - MA eligibility for September 2011 and January 2012 in accordance with Department policy;
3. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive but did not for March 2011, September 2011, and January 2012; 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: **8/12/2014**

Date Mailed: **8/12/2014**

EJF/cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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:

