

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 14-001854  
Issue No.: 2002  
Case No.: [REDACTED]  
Hearing Date: June 26, 2014  
County: MACOMB (50-12)

**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, a three-way telephone hearing was held on June 26, 2014, from Detroit, Michigan. The Claimant did not appear. Participants on behalf of Claimant included [REDACTED], the Claimant's Authorized Hearing Representative. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Sepcialist.

**ISSUE**

Did the Department properly deny the Claimants application for MA-P and Retro application due to failure to complete the verification of Medical evidence requested by the Department?

**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 Claimant applied for MA-P on October 4, 2013 and also sought retroactive coverage back to July 2013. After the application was processed, the MRT deferred its decision on November 27, 2013 and requested additional medical documentation and medical records be obtained. Exhibit A and B
2. The Department sent the Claimant's AHR a verification checklist to be completed. The VCL requested a current completed DHS 49 from the Claimant's treating doctor, current psych treatment notes, complete records for July admittance and complete 2013 records.

3. The Department granted 3 extensions of the VCL. The Department received the medical records and discharge summary for the July admittances, but did not receive the DHS 49 from the Claimant's treating doctor and did not receive the psych treatment notes or complete 2013 records.
4. The Department denied the Claimant's application on 1/29/14. The Department sent a DHS 176 denying the application due to not returning information requested by final due date of 1/15/14, and due to the fact that the DHS 49 from treating doctor and psych treatment notes were not returned. Exhibit D.
5. The Claimant's AHR requested a hearing on April 29, 2014 protesting the denial of the Claimant's application for MA-P.

### **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.

Additionally, at the hearing it was determined that the Claimant's AHR had received the original medical packet and obtained as much of the medical documentation it could obtain after 3 extensions. The AHR submitted 23 pages of medical records and an additional 9 pages of medical documents before the expiration of the extension date of January 15, 2014. On January 24, 2014, the AHR notified the Department that notwithstanding its efforts the Claimant's treating doctor had sent out the requested medical treatment records to a copying service and that the AHR was unable to get a completed DHS 49. The AHR requested that the Department schedule the Claimant for a medical appointment to have the DHS 49 completed or resubmit the medical records that were provided to the Department to the MRT for a medical determination.

The Department testified that the application could not be sent to the Medical Review Team without the DHS 49 and denied the application. The Department did not forward the medical documentation it received from the AHR to the MRT because the medical documentation did not contain all the requested medical information and records. The Department did not assist the Claimant in obtaining a DHS 49 from a doctor other than the Claimant's treating doctor.

The Department denied the application for failure of the Claimant to submit the DHS 49 and current psych treatment notes were not returned. Exhibit D, Exhibit 1 pp. 10.

A review of policy found in BAM 815 raises the question regarding whether a failure to return a DHS 49 allows the Department to deny an application solely on that basis. In accordance with Department policy, BAM 815, the Department had no such right to deny the MA-P and SDA application for failure to return a DHS 49 and other medical records. A DHS 49 is a type of medical evidence, and per policy found in BAM 815, a DHS 49 is not a verification as commonly understood under BAM 130. BAM 815 does not allow the department to deny an application for failing to return medical evidence, the Claimant, per policy, is only required to return a DHS 1555 and a DHS 49F. If there is a lack of medical evidence, the case is to be denied **by MRT** for lack of medical evidence. Lastly, Per BAM 815, the determination that there is insufficient evidence to make an eligibility determination with regards to medical disability lies solely with the MRT.

Step 18 of the medical evidence process found in BAM 815 instructs MRT to make a medical eligibility determination, not the local office. The local office superseded the duties of the MRT to make their own eligibility determination by determining there was not enough medical evidence – such as the DHS 49. This is expressly contrary to the law and policy, and the Department was incorrect to make this finding. If there is not enough medical evidence, MRT is to make the finding of no disability. The local office may not make a disability finding as they did in the current case.

If there is a lack of medical evidence such as a DHS 49, the case is to be denied by MRT for lack of evidence, nor can the Department place the requirement for gathering medical evidence solely on the Claimant. Per BAM 815, the determination that there is insufficient evidence to make an eligibility determination with regards to medical disability lies solely in the hands of MRT.

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.

did not act in accordance with Department policy when it denied the Claimant MA-P application for failure to complete the verification and failure to submit the medical evidence that it did obtain to the MRT for its consideration. .

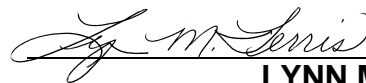
### **DECISION AND ORDER**

Accordingly, the Department's 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. The Department shall re-register the Claimant's October 4, 2013 MA-P application and retro-application, and process the application and retro application in accordance with Department Policy, and shall submit the medical evidence provided to the Department by the Claimant's AHR to the MRT for its review and consideration.



**LYNN M. FERRIS**

Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: **7/16/2014**

Date Mailed: **7/16/2014**

LMF/tm

**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:

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

cc:

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