

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-004201
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: October 02, 2014
County: MACOMB-12 (MT CLEMENS)

ADMINISTRATIVE LAW JUDGE: Robert Chavez

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, an in-person hearing was held on October 2, 2014, from Clinton Township, Michigan. Participants on behalf of Claimant included [REDACTED] of [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], HF.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | |

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for received:
 FIP FAP MA SDA CDC
benefits.
2. Claimant was required to submit requested verification by October 28, 2013.

3. On January 7, 2014, the Department
 denied Claimant's application.
 closed Claimant's case.
 reduced Claimant's benefits.
4. On January 7, 2014, the Department sent Claimant, but not Claimant's Authorized Representative, notice of its action.
5. On May 27, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's action.

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), and Department of Human Services Reference Tables Manual (RFT).

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.

Claimant requested a hearing on May 27, 2014, more than 90 days after the initial application had been denied. Claimant's authorized representative (AR) was not sent a notice of the case action.

Claimant's AR initially filed the application in question on October 17, 2013. However, in November, 2013, a second, different AR filed a different MA application on behalf of the Claimant for a different period of time with regard to a different hospital stay. When this second application was filed, DHS removed Claimant's first AR from Claimant's entire case file, and ceased to send notifications to the first AR with regards to the disposition of the case. All subsequent notifications, including notifications regarding the October 17, 2013 application, were instead sent to the second AR.

As such, Claimant's first AR did not receive notification that the application of October 17, 2013 had been denied on January 7, 2014.

After long consideration, the undersigned believes that this was an error.

BAM 110 discusses authorized representatives. It dictates who may be an authorized representative, what is required to appoint an authorized representative, and what duties an authorized representative has.

What this policy does not state is that Claimant is only allowed one authorized representative at a time, and that authorized representative takes over as authorized representative for all benefit applications.

BAM 110 states specifically that, with regard to MA:

Application may be made on behalf of a client by his spouse, parent, legal guardian, adult child, stepchild, core relative or any other person provided the person is at least age 18 or married. If this person is not a spouse, parent, legal guardian, adult child, stepchild, or core relative, the person must have authorization to act on behalf of the client, by the client, client's spouse, parent(s) or legal guardian.

This policy only refers to a single application, when made by the AR; it does not state, at any point, that the AR takes over for Claimant's entire case, and becomes responsible for managing a Claimant's entire portfolio of benefit cases and applications.

This is logical; it would create confusion and unwanted outcomes if a representative agency, whose sole purpose was to apply for MA on behalf of their clients in order to secure payment for hospital bills, suddenly became responsible for managing Claimant's FAP redeterminations based on their application for MA.

The undersigned does not believe that the Department at any time would allege that a representative agency, such as the ones at issue in the current case, should also be responsible for Claimant's other benefits, such as FAP when they file an application.

Thus, we can therefore conclude that when an AR submits an application, they become an AR for that application only, not for the entire case. This logic would continue for all applications—an AR is responsible for the application that they filed only, and no other applications, unless otherwise authorized by the client. Additionally, nothing in BAM 110 prohibits Claimant from having multiple ARs, provided those ARs are attached to separate applications.

As such, it follows that when the second AR filed their application in November, 2013, they became AR for that application only; they did not become AR for the October 17, 2013 application. Claimant's first AR should have remained AR on that application only.

While the Department did argue that the BRIDGES system only allows for one AR at a time, and does not attach ARs to specific applications, the undersigned can only state that this is a software problem, and the Department is required to comply with policy. As there is no policy disallowing multiple ARs, or separate ARs attached to individual

applications, the inability to make entries in BRIDGES is irrelevant. Policy must dictate BRIDGES capabilities, not vice versa.

Therefore, as Claimant's AR for the October 17, 2013 application was not notified of its denial, it therefore follows that Claimant's request for hearing on that application was not untimely, as no notice was given.

With regard to the substantive case, the application was denied for failure to provide verifications. A DHS-3503 was mailed on October 18, 2013 to the Claimant; however, there is no evidence that it was mailed to the AR (who, it should be noted, was still listed as the AR on the case at this time). Per BAM 110, an AR assumes all responsibilities of the client. As this would include responding to a request for verification, this would mean that requests must be sent to ARs as well. As no request can be shown to have been made to the AR, the undersigned holds that the Department was in error when they denied the application of October 17, 2013, for lack of verification.

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 Claimant's October 17, 2013 MA application for failing to provide verification.


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. Reregister and process Claimant's October 17, 2013 application for MA benefits.



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

Date Signed: **11/3/2014**
Date Mailed: **11/3/2014**
RJC / 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:

